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Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: February 23, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-ASW-22; Amdt. 39-6515]

Airworthiness Directives; Aerospatiale (Societe Nationale Industrielle Aerospatiale) (SNIAS) Model AS 350 and AS 355 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) which requires repetitive inspections, rework, or replacement, as necessary, of the main rotor head components, the main gearbox suspension struts, and the landing gear ground resonance components on Aerospatiale Model AS 350 and AS 355 series helicopters. This AD is needed to change the repetitive inspection interval to correspond with the service bulletins and the Master Servicing Recommendations (MSR) standard repetitive inspection interval referenced in the service bulletins. This AD will result in reduced maintenance costs, eliminate unnecessary operational costs, and, at the same time, maintain the required level of safety.

EFFECTIVE DATE: March 22, 1990.

Compliance: As indicated in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053-4005, or may be examined in the Regional Rules Docket, Office of the Assistant Chief Counsel, FAA, 4400 Blue Mound Road, Room 158, Bldg. 3B, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Mathias, FAA, Rotorcraft Standards Staff, Rotorcraft Directorate, Fort Worth, Texas 76193-0110, telephone (817) 624-5123.

SUPPLEMENTARY INFORMATION: A notice to amend Amendment 39-5517 (52 FR 13233; April 22, 1987), AD 86-15-10, was published in the **Federal Register** on January 30, 1989 (54 FR 4290). Amendment 39-5517 currently requires repetitive inspections of the main rotor head components, the main gearbox suspension bars, and the ground resonance prevention system components at 300-hour intervals on all Aerospatiale Model AS 350 and AS 355 series helicopters. The notice proposed to amend Amendment 39-5517 by changing the inspection interval in paragraph (c) from 300 to 400 hours' time in service. The proposal was prompted by reports of confusion and unnecessary costs caused by the difference in the 300-hour inspection interval of Amendment 39-5517 and the 400-hour inspection interval in Aerospatiale Service Bulletin 01.17a or 01.14a, which were incorporated by reference into Amendment 39-5517. After reviewing the basis for the 300-hour inspection interval of Amendment 39-5517 and the service history since issuing Amendment 39-5517, the FAA has determined that the 300-hour inspection interval can be extended to 400 hours without adversely impacting safety.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received. Accordingly, the proposal is adopted without change.

The regulations adopted herein will not have substantial direct effects on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is relieving in nature and imposes no additional costs or regulatory burden on any person. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is minimal; and (4) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Rev. Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by amending Amendment 39-5517 (52 FR 13233; April 22, 1987), AD 86-15-10, by revising paragraph (c) as follows:

Societe Nationale Industrielle Aerospatiale (SNIAS): Applies to Aerospatiale Model AS 350 and AS 355 series helicopters, certificated in any category. (Docket No. 86-ASW-22)

Compliance is required as indicated, unless already accomplished.

To prevent the failure of the main rotor head star arms and the main gearbox suspension bars, accomplish the following:

* * * * *

(c) Repeat the inspections and rework of paragraphs (a) and (b) in intervals not to exceed 400 hours' time in service.

* * * * *

This amendment becomes effective March 22, 1990.

This amendment amends Amendment 39-5517 (52 FR 13233; April 22, 1987), AD 86-15-10.

Issued in Fort Worth, Texas, on February 8, 1990.

Larry M. Kelly,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 90-3776 Filed 2-16-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 89-ACE-30]

Alteration of Control Zone—Offutt Air Force Base, NE.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the control zone description at Offutt Air Force Base, Nebraska, to correct the airport coordinates and to add airspace necessary to protect the ILS approach to Runway 30.

EFFECTIVE DATE: 0901 u.t.c., June 28, 1990.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, System Management Branch, Air Traffic Division, ACE-530, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

History

On November 1, 1989, the FAA published a Notice of Proposed Rulemaking, which would amend § 71.171 of part 71 of the Federal Aviation Regulations, so as to alter the control zone at Offutt Air Force Base, Nebraska (54 FR 46072). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking. Except for editorial changes, this amendment is the same as that proposed in the Notice. Section 71.171 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F, dated January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the control zone at Offutt Air Force Base, Nebraska. The Department of the Air Force has requested that action be taken to correct the airport coordinates and to add the additional airspace that is required to protect the ILS approach to Runway 30. This action is necessary to redefine controlled airspace at this location.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Offutt AFB, Nebraska [Revised]

Within a 5.5-mile radius of Offutt AFB (lat. 41°07'10"N., long. 95°54'30"W), within 2 miles each side of the Offutt Runway 30 ILS localizer southeast course to a point 7.5 miles from the origin.

Issued in Kansas City, Missouri, on January 29, 1990.

William Behan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 90-3782 Filed 2-16-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ACE-33]

Alteration of Control Zone and Transition Area—Jefferson City, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the control zone and 700-foot transition area at Jefferson City, Missouri. An additional instrument approach procedure has been developed for Jefferson City Memorial Airport, Jefferson City, Missouri, utilizing the NOAH nondirectional radio beacon (NDB) as a navigational aid. The intended effect of this action is to provide additional controlled airspace for aircraft executing the new instrument approach procedure to the Jefferson City Memorial Airport.

EFFECTIVE DATE: 0901 u.t.c., June 28, 1990.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, System Management Branch, Air Traffic Division, ACE-530, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

History

On November 1, 1989, the FAA published a Notice of Proposed Rulemaking which would amend §§ 71.171 and 71.181 of part 71 of the Federal Aviation Regulations, so as to alter the control zone and transition area at Jefferson City, Missouri (54 FR 46073). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking. Sections 71.171 and 71.181 of part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6F, dated January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the control zone and 700-foot transition area at Jefferson City, Missouri. This action is necessary in order to provide additional controlled airspace for aircraft executing a new instrument approach procedure to Runway 12 at the Jefferson City Memorial Airport. Therefore, the control zone and transition area at this location will be altered as described in this airspace action. The intended effect of this action is to provide adequate controlled airspace for aircraft executing this new instrument approach procedure.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation

as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, and Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Rev. Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. Section 71.171 is amended as follows:

§ 71.171 [Amended]

Jefferson City, MO. [Revised]

Within a 5-mile radius of Jefferson City, Memorial Airport (lat. 38°35'28"N., long. 92°09'22"W.); and within 3 miles each side of the NOAH NDB 303° bearing, extending from the 5-mile radius to 8 miles northwest of the NOAH NDB, and within 2.5 miles each side of the Memorial NDB (lat.38°33'14"N., long. 92°04'40"W.) 122° bearing, extending from the 5-mile radius zone to 11.5 miles southeast of the Memorial NDB. This control zone shall be effective during the times established by Notice to Airmen and continuously published in the Airport/Facility Directory.

3. Section 71.181 is amended as follows:

§ 71.181 [Amended]

Jefferson City, MO [Revised]

That airspace extending upward from 700 ft. above the surface within an 8.5-mile radius of the Jefferson City, Memorial Airport (lat.38°35'28"N., long. 92°09'22"W.) and within 3.5 miles each side of the NOAH NDB 303° bearing, extending from the 8.5-mile radius area to 16.5 miles northwest of the airport, and within 4.5 miles each side of the Runway 30 localizer final approach course extending from the 8.5-mile radius to 12 miles southeast of the Memorial NDB (lat.38°33'14"N., long. 92°04'40"W.).

Issued in Kansas City, Missouri, on January 29, 1990.

William Behan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 90–3780 Filed 2–16–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 89–ACE–38]

Alterations of Control Zone—Kirksville, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the control zone description at Kirksville, Missouri. The Clarence Cannon Memorial Airport, Kirksville, Missouri, has been renamed the Kirksville Regional Airport. Accordingly, the control zone description is being altered to reflect this name change.

EFFECTIVE DATE: 0901 u.t.c., June 28, 1990.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, System Management Branch, Air Traffic Division, ACE–530, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426–3408.

SUPPLEMENTARY INFORMATION:

The Rule

The purpose of this amendment to subpart F of part 71 of the Federal Aviation Regulations (14 CFR part 71) is to alter the control zone description at Kirksville, Missouri. The Clarence Cannon Memorial Airport, Kirksville, Missouri, has been renamed the Kirksville Regional Airport. Accordingly, alteration of the Kirksville control zone description is necessary to reflect this name change. Section 71.171 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

Since this action is a minor technical amendment in which the public would not be particularly interested, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71), is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Kirksville, Missouri [Revised]

Within a 5-mile radius of Kirksville Regional Airport (lat. 40°05'45"N., long. 92°32'50"W.). This control zone will be effective initially during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Kansas City, Missouri, on January 29, 1990.

William Behan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 90–3779 Filed 2–16–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 89–ACE–40]

Alteration of Control Zone—St. Louis, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the control zone description at St. Louis, Missouri. The St. Louis International Airport, St. Louis, Missouri, has been renamed the

Lambert-St. Louis International Airport. Accordingly, the control zone description is being altered to reflect this name change.

EFFECTIVE DATE: 0901 u.t.c. June 28, 1990.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, System Management Branch, Air Traffic Division, ACE-530, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

The Rule

The purpose of this amendment to subpart F of part 71 of the Federal Aviation Regulations (14 CFR part 71) is to alter the control zone description at St. Louis, Missouri. The St. Louis International Airport, St. Louis, Missouri, has been renamed the Lambert-St. Louis International Airport. Accordingly, alteration of the St. Louis control zone description is necessary to reflect this name change. Section 71.171 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

Since this action is a minor technical amendment in which the public would not be particularly interested, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Rev. Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

St. Louis, Missouri [Revised]

Within a 5-mile radius of Lambert-St. Louis International Airport (lat. 38°44'50"N., long. 90°21'55"W.); within 2 miles each side of the Lambert-St. Louis International Airport Runway 24 ILS localizer southwest course, extending from the 5-mile radius zone to 10½ miles southwest of the OM; within 2 miles each side of the St. Louis VORTAC 142° radial; extending from the 5-mile radius zone to 7 miles northwest of the northwest end of the Lambert-St. Louis International Airport Runway 12R; within 2 miles each side of the Lambert-St. Louis International Airport Runway 12R ILS localizer northwest course, extending from the 5-mile radius zone to the Runway 12R OM; and within 2 miles each side of the Lambert-St. Louis International Airport Runway 12R ILS localizer southeast course, extending from the 5-mile radius zone to 6 miles southeast of the Runway 12R localizer.

Issued in Kansas City, Missouri, on January 20, 1990.

William Behan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 90-3777 Filed 2-16-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ACE-39]

Alteration of Control Zone and Transition Area—Springfield, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal Action is to alter the control zone and transition area descriptions at Springfield, Missouri. The Springfield Municipal Airport, Springfield, Missouri, has been renamed the Springfield Regional Airport. Accordingly, the control zone and transition area descriptions are being altered to reflect this name change.

EFFECTIVE DATES: 0901 u.t.c., June 28, 1990.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, System Management Branch, Air Traffic Division, ACE-530, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

The Rule

The purpose of this amendment to subparts F and G of part 71 of the Federal Aviation Regulations (14 CFR part 71) is to alter the control zone and transition area descriptions at Springfield, Missouri. The Springfield Municipal Airport, Springfield, Missouri, has been renamed the Springfield Regional Airport. Accordingly, alteration of the Springfield control zone and transition area descriptions is necessary to reflect this name change. Sections 71.171 and 71.181 of part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6F, dated January 2, 1990.

Since this action is a minor technical amendment in which the public would not be particularly interested, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, and Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Rev. Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Springfield, Missouri [Revised]

Within a 5-mile radius of the Springfield Regional Airport (lat. 37°14'35"N., long. 93°23'20"W.) and within 2 miles west and 2.5 miles east of the Springfield VORTAC 200° radial, extending from the 5-mile radius zone to the VORTAC.

§ 71.18 [Amended]

3. Section 71.181 is amended as follows:

Springfield, Missouri [Revised]

That airspace extending upward from 700 ft. above the surface within a 7-mile radius of the Springfield Regional Airport (lat. 37°14'35"N., long. 93°23'20"W.); within 2 miles each side of the 324° bearing from the Willard RBN, extending from the 7-mile radius area to 8 miles northwest of the RBN; within 5 miles west and 8 miles east of Springfield ILS localizer south course, extending from 1 mile north to 12 miles south of the OM.

Issued in Kansas City, Missouri, January 29, 1990.

William Behan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 90-3778 Filed 2-16-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ACE-31]

Alteration of Transition Area—Omaha, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area description at Omaha, Nebraska. This alteration is necessary to correct the airport coordinates for the airfield at Offutt Air Force Base and Omaha, Nebraska, Eppley Field.

EFFECTIVE DATE: 0901 u.t.c., June 28, 1990.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, System Management Branch, Air Traffic Division, ACE-530, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

History

On November 1, 1989, the FAA published a Notice of Proposed Rulemaking, which would amend § 71.181 of part 71 of the Federal Aviation Regulations, so as to alter the transition area at Omaha, Nebraska (54 FR 46074). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking. Except for editorial changes, this amendment is the same as that proposed in the Notice. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The Rule

The amendment to part 71 of the Federal Aviation Regulations alters the transition area description at Omaha, Nebraska. The Department of the Air Force has requested that the control zone for the airfield at Offutt Air Force Base be altered. As a result, this proposed action is necessary to redefine the 700-foot transition area at Omaha, Nebraska, in order to correct the coordinates for Offutt Air Force Base Airfield. This action also corrects the coordinates for Eppley Field, Omaha, Nebraska.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Rev. Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Omaha, Nebraska [Amended]

On the second line change "41°18'00"N., long. 95°53'35"W., to read 41°18'08"N., long. 95°53'36"W." On the eight line change "41°07'20"N., long. 95°54'35"W., to read "41°07'10"N., long. 95°54'30"W."

Issued in Kansas City, Missouri, on January 29, 1990.

William Behan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 90-3781 Filed 2-16-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR PART 71

[Airspace Docket No. 88-ACE-13]

Cancellation of Control Zone—Hays, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to cancel the control zone at Hays, Kansas. This action is necessary because the weather observation reporting requirements justifying the designation of the control zone at this airport have not been met.

EFFECTIVE DATE: 0901 u.t.c., June 28, 1990.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, System Management Branch, Air Traffic Division, ACE-530, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

History

On December 23, 1989, the FAA published a Notice of Proposed Rulemaking which would amend Section 71.171 of part 71 of the Federal Aviation Regulations (FAR) so as to cancel the control zone at Hays, Kansas (53 FR 51822). Section 71.171 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. While no formal objections were received as a result of the proposed rulemaking, the airport manager

requested that the action be delayed to allow time to improve the weather reporting statistics at the Hays Municipal Airport. A survey of required weather reports from the Hays Municipal Airport to the Wichita Automated Flight Service Station was made pursuant to this request. There was no appreciable improvement in weather reporting statistics. Accordingly, action is taken herein to cancel the Hays, Kansas, control zone as originally proposed.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) cancels the control zone at Hays, Kansas. The weather observation requirements for control zones is not being met at Hays, Kansas. Several surveys by the Wichita Automated Flight Service Station have determined that less than one-half of the required weather observations from Hays, Kansas, Municipal Airport have been distributed. Accordingly, since a key requirement for the designation of a control zone is not being met, the FAA is canceling the Hays, Kansas, control zone.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS.

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Hays Municipal Airport, Kansas [Removed]

Issued in Kansas City, Missouri, on January 8, 1990.

William Behan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 90-3783 Filed 2-16-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

Advisory Committees; Generic Drugs Advisory Committee; Establishment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing the establishment by the Secretary of Health and Human Services of the Generic Drugs Advisory Committee in FDA's Center for Drug Evaluation and Research. Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice requesting nominations for membership on this committee. This document adds to the agency's list of standing advisory committees.

DATES: Effective February 20, 1990. Authority for the committee being established will end January 22, 1992, unless the Secretary of Health and Human Services formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1971 (Pub. L. 92-463) and 21 CFR 14.40(b), FDA is announcing the establishment by the Secretary of Health and Human Services (the Secretary) of the Generic Drugs Advisory Committee.

The committee will give advice on scientific and technical issues concerning the safety and effectiveness of human generic drug products for use in the treatment of a broad spectrum of human diseases and make appropriate recommendations to the Secretary, the Assistant Secretary for Health, the Commissioner of Food and Drugs, and the Director of the Center for Drug Evaluation and Research. The committee may also review agency-sponsored intramural and extramural biomedical research programs in support of FDA's generic drugs regulatory responsibilities.

Because this is a technical amendment to 21 CFR part 14, the Commissioner of Food and Drugs finds under 21 CFR 10.40 (c), (d), and (e) that notice and public procedure in § 10.40(b) are unnecessary and contrary to the public interest. Therefore, the agency is adding new paragraph (c)(16) to 21 CFR 14.100 as set forth below.

List of subjects in 21 CFR Part 14

Administrative practice and procedure, Advisory committees, Color additives, Drugs, Radiation protection.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 14 is amended as follows:

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

1. The authority citation for 21 CFR part 14 continues to read as follows:

Authority: Secs. 201-902 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321-392); 21 U.S.C. 41-50, 141-149, 467f, 679, 821, 1034; secs. 2, 351, 354-360F, 361 of the Public Health Service Act (42 U.S.C. 201, 262, 263b-263n, 264); secs. 2-12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451-1461); 5 U.S.C. App. 2; 28 U.S.C. 2112.

2. Section 14.100 is amended by adding new paragraph (c)(16) to read as follows:

§ 14.100 List of standing advisory committees.

* * * * *

(c) * * *

(16) *Generic Drugs Advisory Committee—*

(i) *Date established.* January 22, 1990.

(ii) *Function.* Gives advice on scientific and technical issues concerning the safety and effectiveness of human generic drug products for use in the treatment of a broad spectrum of human diseases and makes appropriate

recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, the Commissioner of Food and Drugs, and the Director of the Center for Drug Evaluation and Research. The committee may also review agency-sponsored intramural and extramural biomedical research programs in support of FDA's generic drugs regulatory responsibilities.

* * * * *

Dated: February 9, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-3848 Filed 2-16-90; 8:45 am]

BILLING CODE 4160-01-M;

21 CFR Part 440

[Docket No. 90N-0012]

Antibiotic Drugs; Ticarcillin Disodium and Clavulanate Potassium Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new injectable dosage form of ticarcillin disodium, ticarcillin disodium and clavulanate potassium injection. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective March 22, 1990; written comments, notice of participation, and request for hearing by March 22, 1990; data, information, and analyses to justify a hearing by April 23, 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drug Evaluation and Research (HFD-520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new injectable dosage form of ticarcillin disodium, ticarcillin disodium and clavulanate potassium injection. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended by adding new 21 CFR 440.91 to subpart A and adding new 21 CFR 440.290c to subpart C to provide for the inclusion of accepted standards for this product.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, FDA finds that notice and comment procedure is unnecessary and not in the public interest. This final rule, therefore, becomes effective March 22, 1990. However, interested persons may, on or before March 22, 1990, submit comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before March 22, 1990, a written notice of participation and request for hearing, and (2) on or before April 23, 1990, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this document and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 440

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 440 is amended as follows:

PART 440—PENICILLIN ANTIBIOTIC DRUGS

1. The authority citation for 21 CFR part 440 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

2. Section 440.91 is added to subpart A to read as follows:

§ 440.91 Ticarcillin monosodium monohydrate.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Ticarcillin monosodium monohydrate is 6-[(carboxy-3-thienylacetyl)] amino-3,3-dimethyl-7-oxo-4-thia-1-azabicyclo [3.2.0] heptane-2-carboxylic acid monosodium salt monohydrate. It is so purified and dried that:

(i) Its ticarcillin potency is not less than 890 micrograms of ticarcillin per milligram calculated on an anhydrous basis.

(ii) Its moisture content is not less than 4.0 and not more than 6.0 percent.

(iii) The pH of an aqueous solution containing 10 milligrams of ticarcillin per milliliter is not less than 2.5 and not more than 4.0.

(iv) It gives a positive identity test for ticarcillin.

(v) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, moisture, pH, identity, and crystallinity.

(ii) Samples, if required by the Center for Drug Evaluation and Research: 10 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay*—(1) *Ticarcillin potency.* Determine the micrograms of ticarcillin activity per milligram of sample. Proceed as directed in § 436.355 of this chapter using the equipment, conditions, reagents, and system suitability requirements as described in § 440.290b(b), except use the resolution test solution to determine resolution in lieu of the working standard solution. Prepare the working standard solution, sample solution, and resolution test solution and calculate the micrograms of ticarcillin per milligrams as follows:

(i) *Preparation of working standard, sample, and resolution test solutions*—(A) *Working standard solution.* Accurately weigh a quantity of the ticarcillin working standard containing the equivalent of approximately 90 milligrams of ticarcillin activity and transfer to a 100-milliliter volumetric flask. Dissolve and dilute to volume with diluent pH 6.4 phosphate buffer prepared as described in § 440.290b(b)(1)(i)(*c*).

(B) *Sample solution.* Dissolve an accurately weighed portion of the sample with diluent pH 6.4 buffer as prepared in § 440.290b(b)(1)(i)(*c*) to obtain a solution containing 0.9 milligram of ticarcillin activity per milliliter (estimated).

(C) *Resolution test solution.* Accurately weigh a quantity of the ticarcillin working standard containing the equivalent of approximately 90 milligrams of ticarcillin activity and transfer to a 100-milliliter volumetric flask. Prepare a solution of the clavulanic acid working standard containing the equivalent of 30 milligrams of clavulanic acid activity in a 100-milliliter volumetric flask. Dissolve and dilute to volume with diluent. Transfer 10 milliliters of this solution into the flask containing the ticarcillin standard. Dilute the combined standard solution to volume with diluent and mix. Use within 8 hours of preparation.

(ii) *Calculations.* Calculate the micrograms of ticarcillin per milligram as follows:

$$\text{Micrograms of ticarcillin per milligram} = \frac{A_u \times P_s \times 100}{A_s \times C_u \times (100\text{-}m)}$$

where:

A_u = Area of the ticarcillin peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the ticarcillin peak in the chromatogram of the ticarcillin working standard;

P_s = Ticarcillin activity in the ticarcillin working standard solution in micrograms per milliliter;

C_u = Milligrams of ticarcillin sample per milliliter of sample solution; and

m = Percent moisture content of the sample.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 milligrams of ticarcillin per milliliter.

(4) *Identity.* Proceed as directed in § 440.90a(b)(7).

(5) *Crystallinity.* Proceed as directed in § 436.203 of this chapter.

3. Section 440.290c is added to subpart C to read as follows:

§ 440.290c Ticarcillin disodium and clavulanate potassium injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Ticarcillin disodium and clavulanate potassium injection is a frozen, aqueous, isoosmotic solution of ticarcillin disodium and clavulanate potassium with one or more suitable and harmless buffer substances. The ratio of ticarcillin to clavulanic acid is 30:1. Each milliliter contains ticarcillin disodium equivalent to 30 milligrams of ticarcillin and clavulanate potassium equivalent to 1 milligram of clavulanic acid. Its ticarcillin content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of ticarcillin that it is represented to contain. Its clavulanate potassium content is satisfactory if it contains not less than 85 percent and not more than 120 percent of the number of milligrams of clavulanic acid that it is represented to contain. It is sterile. It is nonpyrogenic. Its pH is not less than 5.5 and not more than 7.5. It passes the identity test. The ticarcillin monosodium monohydrate used conforms to the standards prescribed by § 440.91(a)(1). The clavulanate potassium used conforms to the standards prescribed by § 455.15(a)(1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(A) The ticarcillin monosodium monohydrate used in making the batch for potency, moisture, pH, identity, and crystallinity.

(B) The clavulanate potassium used in making the batch for potency, moisture, pH, identity, and clavam-2-carboxylate content.

(C) The batch for ticarcillin content, clavulanic acid content, sterility, pyrogens, pH, and identity.

(ii) Samples, if required by the Center for Drug Evaluation and Research:

(A) The ticarcillin monosodium monohydrate used in making the batch: 12 packages, each containing approximately 300 milligrams.

(B) The clavulanate potassium used in making the batch: 12 packages, each containing approximately 300 milligrams.

(C) The batch:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay.* Thaw the sample as directed in the labeling. The sample solution used for testing must be at room temperature.

(1) *Ticarcillin and clavulanic acid contents.* Proceed as directed in § 440.290b(b)(1), except use the thawed solution and prepare the sample solution and calculate the ticarcillin and clavulanic acid content as follows:

(i) *Preparation of sample solution.* Using a suitable hypodermic needle and syringe, remove an accurately measured representative portion from each container immediately after thawing and reaching room temperature. Dilute with diluent [described in § 440.290b(b)(1)(i)(*c*)] to obtain a solution containing approximately 0.9 milligram of ticarcillin activity per milliliter (estimated). This solution will contain approximately 0.03 milligram of clavulanic acid per milliliter. Introduce the sample into the chromatograph in a timely manner.

(ii) *Calculations.* Calculate the ticarcillin or clavulanic acid concentration as follows:

$$\text{Milligrams of ticarcillin or clavulanic acid activity per milliliter} = \frac{A_u \times P_s \times d}{A_s \times 1{,}000}$$

where:

A_u = Area of the ticarcillin or clavulanic acid peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the ticarcillin or clavulanic acid peak in the chromatogram of the ticarcillin or clavulanic acid working standard;

P_s Ticarcillin or clavulanic acid activity in the ticarcillin-clavulanic acid working standard solution in micrograms per milliliter; and

d = Dilution factor of the sample.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in § 436.20(e)(1).

(3) *Pyrogens.* Proceed as directed in § 436.32(a) of this chapter, except inject a sufficient volume of the undiluted solution to deliver 100 milligrams of ticarcillin per kilogram.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted solution.

(5) *Identity.* The high-performance liquid chromatogram of the sample determined as directed in paragraph (b)(1) of this section compares qualitatively to that of the ticarcillin and clavulanic acid working standard.

Dated: February 6, 1990.

Sammie R. Young,

Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 90-3851 Filed 2-16-90; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 453

[Docket No. 90N-0015]

Antibiotic Drugs; Clindamycin Phosphate Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a revised formulation of an antibiotic dosage form, clindamycin phosphate injection. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective March 22, 1990, written comments, notice of participation, and request for hearing by March 22, 1990; data, information, and analyses to justify a hearing by April 23, 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drug Evaluation and Research (HFD-520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a revised formulation of an antibiotic dosage form, clindamycin phosphate injection. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in part 453 (21 CFR part 453) by revising 21 CFR 453.222(a)(1) to provide for the inclusion of accepted standards for this product.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, FDA finds that notice and comment procedure is unnecessary and not in the public interest. This final rule, therefore, becomes effective March 22, 1990. However, interested persons may, on or before March 22, 1990, submit comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before March 22, 1990, a written notice of participation and request for hearing, and (2) on or before April 23, 1990, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this document Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, an analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch

(address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 453

Antibiotics.

Therefore, under the federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 453 is amended as follows:

PART 453—LINCOMYCIN ANTIBIOTIC DRUGS

1. The authority citation for 21 CFR part 453 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

2. Section 453.222 is amended by revising paragraph (a)(1) to read as follows:

§ 453.222 Clindamycin phosphate injection.

(a) * * * (1) *Standards of identity, strength, quality, and purity.* Clindamycin phosphate injection is an aqueous solution of clindamycin phosphate with one or more suitable and harmless preservatives, sequestering agents, or tonicity agents. It may be frozen. Its clindamycin phosphate content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of clindamycin that it is represented to contain. It is sterile. It is nonpyrogenic. It contains no depressor substances. Its pH is not less than 5.5 and not more than 7. The clindamycin phosphate used conforms to the standards prescribed by § 453.22a(a)(1).

* * * * *

Dated: February 12, 1990.

Daniel L. Michels,

Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 90-3850 Filed 2-16-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-295 Re; Notice No. 685]

RIN 1512-AA07

Establishment of Mt. Veeder, CA Viticultural Area (88F-20P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision; Final rule.

SUMMARY: This final rule establishes a viticultural area located near the western boundary of Napa County, California, in the most southerly portion of the Mayacamas Mountains which separate Napa Valley and Sonoma Valley. This final rule is based on a notice of proposed rulemaking published in the **Federal Register** on July 14, 1989, at 54 FR 29739, Notice No. 685. ATF believes that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers identify the wines they may purchase. The establishment of viticultural areas also allows wineries to specify further the origin of wines they offer for sale to the public.

EFFECTIVE DATE: March 22, 1990.

FOR FURTHER INFORMATION CONTACT: David W. Brokaw, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC 20226, (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), title 27, CFR defines an American viticultural area as a delimited grape-growing region which has been delineated in subpart C of part 9.

Section 4.25a(e)(2), title 27, CFR, outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include;

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map(s) with the proposed boundaries prominently marked.

Petition

ATF received a petition proposing a viticultural area near the western boundary of Napa County, California, in the most southerly portion of the Mayacamas Mountains which separate Napa Valley and Sonoma Valley. The proposal was submitted by Mr. Robert E. Craig, President, Napa Valley Estate Vineyards and Winery. The viticultural area is approximately 24 square miles or approximately 15,000 acres and is located in Napa County, California. There are five bonded wineries in the viticultural area with approximately 850 acres of grapes. The viticultural area is to be known as Mt. Veeder.

1. Evidence That The Name Of The Area Is Locally Or Nationally Known

A. Name Derivation

Mt. Veeder is the most prominent peak in the area at 2,677 feet elevation. The mountain and viticultural area are named for Reverend Peter V. Veeder, who arrived in Napa in the mid-1850's and became pastor of the Napa Presbyterian Church in 1859. The exact date his name was first applied to the peak is uncertain, although the Napa Daily Register used the name in an article on July 11, 1879.

Although the petitioner petitioned for the name Mt. Veeder-Napa Valley, ATF is only approving the name "Mt. Veeder" since the evidence submitted with the petition and during the comment period did not support the inclusion of "Napa Valley." In fact, the petition suggests that this area has been viewed as a distinct district from the Napa Valley and the Sonoma Valley. Although "Napa Valley" is not being included in the name, a reference to Napa Valley may be used in addition to Mt. Veeder if not less than 85 percent of the volume of the wine is derived from grapes grown in the Mt. Veeder viticultural area, since that area is completely encompassed in the Napa Valley viticultural area. This would be permitted under 27 CFR 4.25(e)(4) which deals with overlap viticultural area appellations. For example, wine could be labeled "Mt. Veeder, Napa Valley," or "Mt. Veeder-Napa Valley."

Mt. Veeder Vineyards is one of five wineries currently located in the viticultural area. The use of Mt. Veeder in a brand name is governed by 27 CFR 4.39(1) (brand names of geographical significance).

B. Local and National Renown

Mt. Veeder received initial local and regional recognition for the healthful climate of the area. Articles on both the healthfulness and the beauty of the Mt. Veeder area were a regular occurrence in Napa Valley newspapers during the 1880s and 1890s. A measure of Mt. Veeder's significance as a resort site is shown in a long article in the San Francisco Chronicle of July 16, 1886, which listed Mt. Veeder as one of the prominent resorts of the area.

While the area surrounding Mt. Veeder has been locally recognized as a distinct district between Napa Valley and Sonoma Valley since the 1870's, it appears from the evidence submitted that the mountain's name was not widely used in reference to this area until later. During the period 1860 to around 1930, a substantial portion of the region east of the Napa/Sonoma County boundary was often referred to as the "Napa Redwoods." Mt. Veeder and the Napa Redwoods often appeared together in newspaper articles written during this period.

However, in the early 20th century, Mt. Veeder gained acceptance locally as the unofficial name for the region and in the early 1940's the term "Napa Redwoods" ceased to appear in newspaper articles.

2. Historical or Current Evidence That the Boundaries of the Viticultural Area Are as Specified in the Petition

The petitioner submitted three 1:24,000 scale U.S.G.S. maps which are the largest scale maps that describe the area. The boundaries of the Mt. Veeder viticultural area coincide in a general manner with those of a region once known as the "Napa Redwoods." The petitioner claimed that "Napa Redwoods" substantially ceased to be used as a term for the region in the 1940s and was supplanted by "Mt. Veeder."

The petitioner asserted that important to boundary considerations on a historical basis is that, in virtually all newspaper accounts during this era (1870's & 1880's), the Mt. Veeder viticultural area was recognized as a distinct subdistrict of Napa Valley, separate from surrounding areas such as Browns Valley, Napa and Yountville. ATF believes the record supports those claims and assertions.

3. Evidence Relating to the Geographic Features (Climate, Soil, Elevation, Physical Features, Etc.) Which Distinguish Viticultural Features of the Area From Surrounding Areas

The Mt. Veeder viticultural area encompasses the eastern slopes of the Mayacamas Mountains west of the city of Napa. The area is roughly triangular in shape, extending southeastward from its apex at Bald Mountain to the rolling hills north of the Carneros District. Elevations generally range from approximately 2,200 feet at its northern apex to 400 feet in the southern end. Mt. Veeder, located in Napa County, is the highest peak in the viticultural area with an elevation of 2,677 feet.

A. Climatic Overview Mt. Veeder

The climate of the Mt. Veeder viticultural area is characterized by cool, moist winters and warm, dry summers. Throughout the year in virtually all climatic zones, a natural temperature inversion develops at night, as cold, heavy air settles and warm, lighter air rises. Because of its elevated location, the minimum temperature in the Mt. Veeder region is warmer than that on the valley floor or adjacent to San Francisco Bay during both summer and winter. This inversion limits frost during the winter and keeps the region relatively frost-free during the spring, when vineyard bud push, flowering and crop "set" takes place.

Rainfall increases with elevation, ranging from about 25 inches at lower elevations to over 65 inches at higher elevations in the northern part of the area. The elevated terrain of the Mt. Veeder region is a factor. The region receives more rainfall than the land east, south and north of it due to the terrain forcing the moist air masses of winter storms upward as they move inland along a southeasterly path from the coast, causing condensation. As Mt. Veeder is the highest point along the Mayacamas Mountains for several miles, the effect is very pronounced in the region. Rainfall averaged 49 inches a year over a 25 year period at a location near the center of the Mt. Veeder area, compared to an average rainfall of 25 to 35 inches (depending on location) in Napa Valley, Sonoma Valley and the Los Carneros.

Conversely, the mean annual temperatures decrease with elevation, but the seasonal range and temperature extremes are less at the lower elevation. This is due to the moderating effect of cooling breezes from San Pablo Bay plus the periodic fog and low clouds at lower elevations.

The pattern of changing climatic conditions with increasing elevation is reflected in a variety of plant communities throughout the viticultural area. At lower elevations, the vegetation is mostly open grassland with scattered oaks. With increasing elevation and precipitation, the plant cover changes to a dense shrub or mixed shrub-oak-madrone-plant community at intermediate elevations and then to a cover of redwood and douglas fir with some madrone, oaks and laurels at higher elevations or in more humid, north facing slopes along creeks at intermediate levels.

B. Soils of the Mt. Veeder Appellation Area

The soils of the Mt. Veeder viticultural area are representative of residual upland soils developed from the weathering of underlying bedrock. Textures range from loams and clay loams to gravelly or stony sandy loams, loams and clay loams. Some soils are deep and permeable while others are shallow with slowly permeable bedrock. Soil reaction varies from neutral or slightly acid to moderately or strongly acid. Color ranges from light gray or pale brown to grayish brown, brown and dark brown, or reddish brown and dark reddish brown, depending on the type of parent material and the amount of organic matter present.

The wide ranges of soil characteristics of the upland soils of the viticultural area were recognized by the Soil Conservation Service in their 1978 "Soil Survey of Napa County, California." In their mapping and classification of the upland soils, they recognized 17 soil series, 31 soil types of phases, and 1 miscellaneous land type. Grapes are currently grown on 9 of these soils which are moderately deep or deep and have 4 to 7 inches or 6 to 10 inches of available water holding capacity (AWC), respectively.

The moderate depth to bedrock (generally 30 to 60 inches) of the grape producing upland soils of the Mt. Veeder viticultural area limits the depth and size of the soil reservoir for rooting, plant nutrients, and available soil moisture. Additionally, not all of the 25 to 65 inches of winter rainfall is effective as much of it runs off, especially on steeper slopes. This loss of runoff waters and the lower AWC of the soils results in limited soil moisture in the late summer and fall months.

The alluvial soils in the Napa Valley, by nature of their mode of formation, types of parent material and physiographic position, are distinctively different, both genetically and morphologically, from the residual upland soils of the Mt. Veeder viticultural area. The diversity of parent material and the wide range of soil characteristics was recognized by the Soil Conservation Service in their mapping and classification of the soils of Napa County. In the Napa Valley they recognized 10 soil series. None of these

valley soils are found on upland slopes in the Mt. Veeder viticultural area. The county line between Sonoma County and Napa County is the drainage divide between the watersheds of Sonoma Creek and the Napa River. There is a sharp contrast between soils and vegetation on the southwest facing slopes in Sonoma County and northeast facing slopes in Napa County where the Mt. Veeder viticultural area is located. This difference in soils and vegetation is partially due to the microclimate aspect differences between the warmer, more arid southwest facing slopes and the cooler, more humid northeast facing slopes. The warmer, southwest slopes have a greater loss of soil moisture which is reflected in the formation of shallow soils and a less humid shrub or brush type of vegetation.

There are also significant differences in the geology between the Sonoma County and Napa County sides of the Mayacamas Mountains. The rocks on the southwest Slopes in Sonoma County are entirely volcanic in origin (Sonoma Volcanics). On these southwest slopes there are broad, extensive areas of volcanic rockland and large acreages of the shallow, gravelly, cobbly or rocky soils of the Goulding and Toomes series. There are no Goulding or Toomes soils in the Mt. Veeder viticultural area and rockland is very rare. In comparison, the geology of the Mayacamas Mountains in Napa County is a combination of both volcanic rocks (Sonoma Volcanics) and sedimentary rocks. The soils have developed from sandstones and shales which are absent on the southwest slopes of the Mayacamas Mountains in Sonoma County. There are distinct and significant differences in soils, geology, vegetation and climate between the southwestern slopes and the eastern slopes of the Mayacamas Mountains which support the justification of the Mt. Veeder viticultural area.

Notice of Proposed Rulemaking

On July 14, 1989, Notice No. 685 was published in the **Federal Register** with a 45 day comment period. In that notice, ATF requested comments regarding the proposal to establish Mt. Veeder as an American viticultural area. ATF requested comments for the proposed name and boundaries for Mt. Veeder. During the 45 day comment period one comment was received. Thirteen comments supporting the petition had been submitted prior to the comment period. The one comment received in response to Notice No. 685 supported the name as proposed by ATF without the inclusion of the modifier "Napa Valley." The commenter also observed that a reference to "Napa Valley" may be used on wine labels in addition to "Mt. Veeder" as discussed under the name derivation section above.

Miscellaneous

ATF does not wish to give the impression by approving "Mt. Veeder" as a viticultural area that it is approving or endorsing the quality of the wine derived from this area. ATF is approving this area as being distinct and not better than other areas. By approving this viticultural area, wine producers are allowed to claim a distinction on labels and advertisements as to the origin of the grapes.

Any commercial advantage gained can only come from consumer acceptance of wines from "Mt Veeder."

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required because the final rule is not expected (1) to have secondary, or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Executive Order 12291

It has been determined that this document is not a major regulation as defined in E.O. 12291 and a regulatory impact analysis is not required because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual, Federal, State, or local government agencies or geographical regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because there is no requirement to collect information.

Drafting Information

The principal author of this document is David W. Brokaw, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority and Issuance

27 CFR part 9, American Viticultural Areas, is amended as follows:

PART 9—[AMENDED]

Paragraph 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The table of contents in 27 CFR part 9, subpart C, is amended to add the title of § 9.123 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

§ 9.123 Mt. Veeder

Par. 3. Subpart C is amended by adding § 9.123 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.123 Mt. Veeder.

(a) *Name.* The name of the viticultural area described in this section is "Mt. Veeder."

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the "Mt. Veeder" viticultural area are three U.S.G.S. Quadrangle (7.5 Minute Series) maps. They are titled:

(1) Napa, California (1951 (Photorevised (1980))

(2) Rutherford, California (1951 (Photorevised (1968))

(3) Sonoma, California (1951 (Photorevised (1980))

(c) *Boundaries.*

(1) Beginning at Bald Mountain, elevation 2,275, on the common boundary between Napa County and Sonoma County in Township 7 North, Range 6 West, Mount Diablo Base and Meridian on the Rutherford, Calif. U.S.G.S. map;

(2) Thence south along common boundary between Napa County and Sonoma County to unnamed peak, elevation 1,135 feet on the Sonoma, Calif. U.S.G.S. map;

(3) Thence continuing south along the ridge line approximately ½ mile to unnamed peak, elevation 948 feet;

(4) Thence due east in a straight line approximately 9/10 mile to the 400 foot contour;

(5) Thence following the 400 foot contour line north around Carneros Valley and then to the west of Congress Valley and Browns Valley on the Napa, Calif. U.S.G.S. map;

(6) Thence paralleling Redwood Road to its intersection with the line dividing Range 5 West and Range 4 West, east of the unnamed 837 foot peak;

(7) Thence north along the line dividing Range 5 West and Range 4 West approximately 1/10 mile to the 400 foot contour;

(8) Thence briefly southeast, then northwest along the 400 foot contour to the point where that contour intersects the northern border of Section 10, Township 6 North, Range 5 West immediately adjacent to Dry Creek on the Rutherford Calif. U.S.G.S. map;

(9) Thence northwesterly along Dry Creek to the tributary stream that joins at elevation 760 feet;

(10) Thence northwest along the tributary and the northern fork of that tributary that joins at elevation 900 feet to its source;

(11) Thence following a straight line west-southwest approximately 3/10 mile to the peak of Bald Mountain, elevation 2,275, the starting point.

Signed: January 18, 1990.

Stephen E. Higgins,

Director.

Approved: February 8, 1990.

Salvatore R. Martoche,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 90-3762 Filed 2-16-90; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

(CGD7-90-3)

Temporary Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is temporarily changing the regulations governing the operation of the Jewfish Creek drawbridge at Key Largo by amending the hours of the existing regulations to provide draw openings at 30-minute intervals on weekends and holidays. This temporary change is being made to evaluate its effect on peak season vehicular and waterway traffic.

DATES: These temporary regulations become effective on February 1, 1990 and terminate on April 2, 1990.

ADDRESSES: Comments regarding this temporary change should be mailed to Commander (oan), Seventh Coast Guard District, 909 SE 1st Avenue, Miami, FL 33131-3050. Any comments received will be available for inspection and copying in the office of the Bridge Administrator located in Room 406 at Brickell Plaza Federal Building, 909 SE 1st Avenue, Miami, FL. Documents and comments concerning this regulation may be inspected Monday through Friday between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Ian MacCartney, (305) 536-4103.

SUPPLEMENTARY INFORMATION: Interested parties submitting written views, comments, data, or arguments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change to the temporary regulation.

Drafting Information

The drafters of this notice are Mr. Ian MacCartney, project officer, and Lieutenant Commander D.G. Dickman, project attorney.

Discussion of Temporary Regulations

The Jewfish Creek drawbridge presently opens on signal, except that on Fridays from 3 p.m. to sunset, and Saturdays and Sundays from 10 a.m. to sunset, the draw need open only on the hour, twenty minutes after the hour and forty minutes after the hour. When a federal holiday occurs on a Friday, the draw need open only on the hour, twenty minutes after the hour, and forty minutes after the hour, from 12 noon to sunset on the Thursday before the holiday, and from 10 a.m. to sunset on Friday (holiday), Saturday, and Sunday. When a federal holiday falls on a Monday, the draw need open only on the hour, twenty minutes after the hour and forty minutes after the hour from 12 noon to sunset on the Friday before the holiday, and from 10 a.m. to sunset on Saturday, Sunday, and Monday (holiday). Monroe County and the Florida Department of Transportation have requested the existing weekend and holiday regulations be changed to a 30-minute opening schedule to help reduce highway traffic congestion. Analysis of current highway traffic data and bridge opening logs confirms traffic levels have increased during recent years. However, lengthening the time between bridge openings may result in longer opening periods to pass the increased number of vessels holding for each opening and might cause even more disruption to highway traffic than the existing 20-minute opening schedule. In addition, the channel approaching the bridge from Barnes Sound on the north side of the bridge is narrow with strong currents and a very restricted holding area. This could create a potentially unsafe holding condition should several vessels be required to wait longer periods for a bridge opening. The Coast Guard intends to implement a 30-minute opening schedule during weekends and holidays for a 60-day trial period to evaluate the impact on navigation and highway traffic movement. Because this is a temporary regulation, it will not appear in the Code of Federal Regulations.

Economic Assessment and Certification

These temporary regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this rule is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the rule exempts tugs with tows. Since the economic impact of the proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33 of the Code of Federal Regulations (CFR) is amended for the period of February 1, 1990 to April 2, 1990. Because this is a temporary rule, the following amendment will not be codified in the CFR.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1g.

2. Paragraph (qq) of § 117.261 is revised to read as follows:

§ 117.261 Atlantic Intracoastal Waterway, St. Marys River to Key Largo.

* * * * *

(qq) Jewfish Creek, mile 1134, Key Largo. The draw shall open on signal; except that from 10 a.m. to sunset, Thursday through Sunday and Federal holidays, the draw need open only on the hour and half-hour.

Dated: February 5, 1990.

J.L. Linnon,

Captain, U.S. Coast Guard, Commander Seventh Coast Guard District, Acting.

[FR Doc. 90-3695 Filed 2-16-90; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL-020; FRL-3725-7]

Approval and Promulgation of Implementation Plans; Alabama Stack Height Review

AGENCY: EPA.

ACTION: Direct final.

SUMMARY: On December 15, 1989, EPA approved a declaration by Alabama that recent revisions to EPA's stack height regulations did not necessitate source specific revisions to the State Implementation Plan (SIP) (54 FR 51398, December 15, 1989). This declaration excluded thirteen sources as they were impacted by one or more of three remanded issues (NRDC vs. Thomas, 838 F.2d 1224 (D.C. Dir. 1988)). This notice adds Alabama Power's Gaston (Wilsonville) and Green (Demopolis) County Steam Plants and Tennessee Valley Authority's Colbert (Cherokee) and Widows Creek (Stevenson) Steam Plants to the list of sources excluded.

DATES: This action will be effective April 23, 1990, unless notice is received within 30 days that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the document relevant to this action are available for public inspection at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

FOR FURTHER INFORMATION CONTACT: Beverly Hudson, EPA Region IV, Air Programs Branch at above listed address and telephone numbers 404-347-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: EPA's stack height regulations were challenged in *NRDC* vs. *Thomas*, 838 F.2d 1224 (D.C. Cir. 1988). On January 22, 1988, the U.S. Court of Appeals for the D.C. Circuit issued a decision affirming the regulations in large part, but remanding three provisions to EPA for reconsideration:

1. Grandfathering pre-October 11, 1983, within-formula stack height increases from demonstration requirements (40 CFR 51.100(kk)(2)).

2. Dispersion credit for sources originally designed and constructed with merged or multi-flue stacks (40 CFR 51.100(hh) (2)(ii)(A)).

3. Grandfathering pre=1979 use of the refined H+1.5L formula (40 CFR 51.100(ii)(2)).

The December 15, 1989, FRN (54 FR 51398) did not include Alabama Power's Gaston and Green County Steam Plants and Tennessee Valley Authority's Colbert and Widows Creek Steam Plants as sources that received credit under one of the provisions remanded to EPA. However, these four sources were affected by the remand because old stacks were replaced by a single taller stack (within—formula stack height increase) prior to October 11, 1983 (40 CFR 51.100 (kk) (2)). This is the first remanded provision mentioned above. In addition, Tennessee Valley Authority's Colbert and Widows Creek Steam Plants were also affected by the remand because of the second provision which reads "dispersion credit for sources originally designed and constructed with merged or multiflue stacks (40 CFR 51.100(hh)(2)(ii)(A))."

Final Action

EPA is adding Alabama Power's Gaston, and Greene County Steam Plants, and Tennessee Valley Authority's Colbert and Widows Creek Steam Plants to the list of Alabama sources that no action was taken due to the stack height remand provisions.

The public is advised that this action will be effective 60 days from today. However, if notice is received within 30 days that someone wishes to make adverse or critical comments, this action will be withdrawn and two subsequent notices will be published prior to the effective date. One notice will withdraw final action and another will begin rulemaking announcing a proposed action and establishing a comment period.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 Executive Order 12291 for a period of two years.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have significant economic impact on a substantial number of small entities (see 46 FR 8709).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 23, 1990. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Particulate matter, Sulfur oxides.

Dated: February 9, 1990.

Joe R. Franzmathes,

Acting Regional Administration.

Part 52, chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

Subpart B—Alabama

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.62 is revised to read as follows:

§ 52.62 Control strategy: sulfur oxides and particulate matter.

In a letter dated May 29, 1987, the Alabama Department of Health and Environmental Control certified that no emission limits in the State's plan are based on dispersion techniques not permitted by EPA's stack height rules. The certification does not apply to: Alabama Electric Cooperative—Lowman Steam Plant; Alabama Power Company-Gorgas Steam Plant, Gaston Steam Plant, Greene County Steam Plant, Gadsden Steam Plant, Miller Steam Plant, and Barry Steam Plant; Alabama River Pulp; Champion International Corporation; Container Corporation of America; Exxon Company's Big Escambia Creek Treating Facility; General Electric's Burkville Plant; International Paper; Scott Paper Company; Tennessee Valley Authority's Colbert, and Widows Creek Steam

Plant; Union Camp Corporation; and U.S. Steel.

[FR Doc. 90-3814 Filed 2-16-90; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

RIN 1018-AA29

Changes in List of Species Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or the Convention) regulates international trade in certain animal and plants. Species for which such trade is controlled are listed in Appendices I, II, and III to the Convention. The nations participating in the Convention, including the United States, recently adopted amendments to Appendices I and II. The United States did not enter a reservation on any of the species amendments approved at the seventh meeting of the Conference of the Parties. This document incorporates these amendments into the U.S. Fish and Wildlife Service's regulations implementing the Convention.

DATES: The amendments set forth in this notice entered into effect and became enforceable on January 18, 1990, under terms of the Convention. Therefore this rule is effective February 20, 1990.

ADDRESSES: Please send correspondence concerning this document to the Office of Scientific Authority; Mail Stop: Room 725, Arlington Square; U.S. Fish and Wildlife Service; Department of the Interior; Washington, DC 20240. Materials received will be available for public inspection, by appointment, from 8:00 a.m. to 4:00 p.m., Monday through Friday, in room 750, 4401 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240, telephone (703) 358-1708.

SUPPLEMENTARY INFORMATION:

Background

The Convention regulates import, export, re-export, and introduction from the sea of certain animal and plant species. Species for which trade is controlled are included in three appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that although not necessarily threatened with extinction may become so unless trade in them is strictly controlled. It also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control (e.g., because of difficulty in distinguishing specimens of currently or potentially threatened species from those of other species). Appendix III includes species that any Party nation identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs the cooperation of other Parties in controlling trade.

Any Party may propose amendments to Appendices I and II for consideration at meetings of the Conference of the Parties. The text of proposals must be communicated to the Convention's Secretariat at least 150 days before the meeting. The Secretariat must then consult the other Parties and appropriate intergovernmental agencies, and communicate its responses to all Parties no later than 30 days before the meeting. Amendments are adopted by a two-thirds majority of the Parties present and voting.

Action of the Parties

The seventh meeting of the Conference of Parties to CITES was held on October 9-20, 1989, in Lausanne, Switzerland. At the meeting, the Parties considered 46 different animal and 40 different plant proposals to amend the appendices. These were listed in the **Federal Register** on September 5, 1989, for proposals submitted by the United States (54 FR 36827) and October 6, 1989, for proposals by other Parties (54 FR 41282).

The proposals that were adopted by the Conference of the Parties were announced in the December 15, 1989, **Federal Register** (54 FR 51432) together with a request for comments from the public on whether the U.S. Fish and Wildlife Service (Service) should recommend that the United States enter a reservation on any of the amendments. The effect of a reservation would be to exempt this country from implementing the Convention for a particular species. More complete discussions of any practical effect of entering reservations and reasons for or against entering reservations are contained in 50 FR 48212 (November 22, 1985) and 54 FR 51432 (December 15, 1989).

Several proposals were withdrawn by the proponent or rejected by vote of the Parties as announced in a December 15, 1989, **Federal Register** notice. The proposed amendments that were accepted by the Parties were also announced in that notice (54 FR 51432), and the subsequent changes that will be incorporated into the Code of Federal Regulations are printed at the end of this notice.

On the listing of *Pteropus* and *Acerodon* species (flying foxes), the Parties agreed to include seven species in Appendix I, *Acerodon jubatus* and *Pteropus speciosus* in Appendix II under Article II, paragraph 2(a), and the remaining unlisted taxa under Article II, paragraph 2(b) (for reasons of similarity of appearance). *Pteropus macrotis* and *P. tokudae* remain listed in Appendix II under Article II, paragraph 2(a). The Parties also accepted an interpretation that "dead specimens" could not be regulated separately and the listing of all *Pteropus* spp. and *Acerodon* spp. was interpreted to also include live specimens.

The original proposal to transfer the African elephant (*Loxodonta africana*) from Appendix II to Appendix I was first rejected by the Parties. The transfer of all populations from Appendix II to Appendix I was subsequently approved with the provision that a panel of experts be convened after the transfer to Appendix II of a population has been requested. Any Party to the Convention, according to resolution Conf. 7.9, may apply to have certain populations transferred, thereby initiating the panel-of-experts process. This panel would recommend whether specific biological and trade criteria are met for those certain populations that would warrant the Parties transferring those populations to Appendix II.

The Parties accepted a proposal calling for the inclusion of the Orders Scleractina, Athecata, Coenothecalia and Stolonifera, containing the hard reef-building and reef-associated corals, in Appendix II, but after amendment to include only the Orders Scleractina and Coenothecalia, the family Tubiporidae in the Order Stolonifera, and the families Milleporidae and Stylasteridae in the Order Athecata in Appendix II, but to exclude any fossil corals in these groups.

Acting upon a proposal submitted by the United States, the Parties agreed that the regulation of seeds of Appendix II Cycadaceae and Zamiaceae would no longer be required, and paragraph (d) of § 23.23 is being revised accordingly. A

further revision of this paragraph will correct a previous entry error by removing reference to the family Stangeriaceae. The only species in that family is listed on Appendix I and trade in its seeds is controlled under provisions for Appendix I listings. In the November 22, 1985, **Federal Register** (50 FR 48212), the plant family Stangeriaceae was removed from Appendix II because its well-accepted single species was already in Appendix I, and a synonym of the species was listed in Appendix I simultaneously with removal of the family from Appendix II. Reference to the family in paragraph (d) of § 23.23, dealing with identified parts and derivatives of certain Appendix II species, should not have been included.

In addition to accepting the various species amendments to Appendices I and II, the Parties agreed to continue an export quota for leopards, accepted export quota changes for populations of crocodiles, and assigned export quotas to the Asian bony tongue population that was transferred from Appendix I to Appendix II.

The Parties agreed to continue the export quota system for leopards (*Panthera pardus*) as initiated in resolution Conf. 4.13 and restated in Conf. 5.13, Conf. 6.9, and Conf. 7.7. Annual export quotas (shown in parentheses) were accepted for specimens from the following countries: Botswana (100), Central African Republic (40), Ethiopia (500), Kenya (80), Malawi (20), Mozambique (60), South Africa (50), Tanzania (250), Zambia (300), and Zimbabwe (500). Changes in recommendations from previous quotas include: an increase of 20 for Botswana, the establishment of quotas for South Africa, and an increase in the number of skins that can be exported by a single person from one to two although the total quota remains as adopted.

The Parties agreed to continue an export quota for Nile crocodiles (*Crocodylus niloticus*), pursuant to resolutions Conf. 5.21 and Conf. 7.14. However, the export quotas for the Cameroon and Congo populations were set at zero. Annual export quotas (shown in parentheses for the years 1990, 1991, and 1992) were accepted for specimens from the following countries: Kenya (5,000, 6,000, and 8,000), Madagascar (0, 2,000, and 4,000), Sudan (5,040, 0 and 0), and Tanzania (1,100, 5,100 and 6,100) with the number of wild-caught specimens generally limited.

The Parties approved the transfer of Nile crocodile populations in Ethiopia and Somalia from Appendix I to Appendix II pursuant to Conf. 5.21. The approved export quotas for specimens from Ethiopia included 70 wild-caught adults, 6,800 skins and specimens from "ranched" animals, and 2,500 wild-caught hatchlings for 1990 and similar quotas in 1991 and 1992 except that the number of ranched specimens would be reduced to 6,000 each year. The quota for Somalia included 500 wild-caught specimens.

The transfer of the following populations of Nile crocodile from Appendix I to Appendix II, pursuant to resolution Conf. 3.15 on ranching, was approved: populations in Botswana, Malawi, Mozambique, and Zambia. Populations in Zimbabwe continue to be listed in Appendix II pursuant to the same resolution on ranching. Changes in proposals resulted in exclusion of specimens taken from the wild in Botswana and reductions of the export of wild specimens from 750 to 250 in Malawi and from 1,000 to 20 in Mozambique.

The annual export quota of 600 specimens for Congo's population of *Crocodylus cataphractus* was continued for 1990, 1991, and 1992, but the export quota for *Osteolaemus tetraspis* was set at zero.

In addition, export quotas of Indonesia's saltwater crocodile population (*Crocodylus porosus*), pursuant to resolution Conf. 5.21, were accepted. Indonesia's quota included 3,000, 3,000 and 2,500 wild-caught specimens in 1990, 1991, and 1992, respectively (with a further restriction on breeding adults based on limitation in skin width) and 2,000, 3,000 and 5,000 "ranched" specimens in 1990, 1991, and 1992, respectively.

Finally, the quotas for Asian bony-tongue specimens (*Scleropages formosus*) from Indonesia included 1,250 wild-caught in 1990, 1,500 specimens in 1991 with a portion from captive-breeding programs, 2,500 specimens in 1992 with 1,250 of these specimens from captive-breeding programs.

Changes in Effective Dates

Several species that were added to Appendices I and II were previously listed in Appendix III. In these instances, the date upon which the species was added to Appendix III remains considered as the date upon which certain provisions of the Convention were applied to that species. Therefore, the effective date shown in this rule for the sloth bear (*Melurus ursinus*), Gurney's pitta (*Pitta gurneyi*), banded pittas (*Pitta quajana*), oriental ratsnake (*Ptyas mucosus*), cobra (*Naja naja*), and King cobra (*Ophiophagus hannah*) is the Appendix III listing date rather than January 18, 1990, used for species added to the appendices for the first time at the seventh meeting of the Conference of the Parties.

Comments Received and Recent Decisions

The Service received five public comments in response to the December 15, 1989, **Federal Register** notice: four requested that the United States enter a reservation and one opposed taking any reservation on the species added to the CITES appendices or uplisted from Appendix II to Appendix I at the seventh meeting of the Conference of the Parties.

Four of the requests were to reserve on the African elephant (*Loxodonta africana*) so as to allow the across-border movement of live elephants legally acquired during the time that the species was listed in Appendix II. Parties, if entering a reservation, must enter a reservation on the species, and cannot do so just on certain activities involving the species. The United States was sufficiently concerned about the status of most elephant populations and the effect that allowing legal trade would have on poaching and illegal trade, that we supported an Appendix I listing for all populations even though a few populations appeared to be stable. Therefore, because the Service does not believe that the transfer of the African elephant to Appendix I is contrary to the interests or laws of the United States and because to enter a reservation on this species could interfere with our efforts to encourage full compliance with the spirit of the treaty by all countries, the Service did not recommend that a reservation be entered for the African elephant. The other commenter, on behalf of 18 organizations, felt that the footnote reference to the African elephant listing should be clarified to indicate that a Party must request the population of African elephant be transferred to Appendix II before the process involving the panel of experts is initiated. The Service agrees with this interpretation of the resolution.

This rule simply implements changes in the list of species in the Convention's appendices that have already been approved by the Conference of the Parties, and that the United States is bound to accept unless it enters any reservations. The Service does not believe that implementation of any of the accepted amendments would be contrary to the interests or law of the United States. The period of time during which the United States could have entered a reservation on any of these amendments ended on January 18, 1990. The Service did not recommend the

entry of any reservations, and none were taken by the United States. Earlier **Federal Register** notices informed the public about these amendments and allowed an opportunity for comment on them. Therefore, the Department of the Interior has determined that good cause exists for making this rule effective upon publication (5 U.S.C. 553(d)). Accordingly, paragraphs (d) and (f) of § 23.23 of 50 CFR have been amended at the conclusion of this rule.

Note: The Department has determined that amendments to the Convention's appendices, which result from actions of the Parties to the Convention, do not require the preparation of Environmental Assessments as defined under authority of the National Environmental Policy Act (42 U.S.C. 4321–4347). The Department has also determined that this listing action is not a rule for purposes of Executive Order 12291, and that the Regulatory Flexibility Act (5 U.S.C. 601) does not apply to this listing process. This final rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

This document was prepared by Drs. Richard M. Mitchell and Bruce MacBryde, Office of Scientific Authority, under the authority of the Endangered Species Act of 1973 as amended (16 U.S.C. 1531 *et seq*).

List of Subjects in 50 CFR Part 23

Endangered and threatened plants, Endangered and threatened wildlife, Exports, Fish, Imports, Marine mammals, Plants (agriculture), Treaties.

Regulation Promulgation

For reasons set out in the preamble of this document, part 23 of title 50, Code of Federal Regulations is amended as follows:

PART 23—ENDANGERED SPECIES CONVENTION

1. The authority citation for part 23 is revised to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, 27 UST 108; and Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

1. Revise § 23.23 paragraph (d)(1) to read as follows:

§ 23.23 [Amended]

(d) * * *

(1) Seeds, spores, and pollen (including pollinia);

§ 23.23 [Amended]

3. Amend paragraph (f) of § 23.23 by adding to the list the following species or other groups of animals and plants in alphabetical order under the appropriate taxonomic categories:

Species	Common name	Appendix	Date listed (month/day/year)
Class Mammalia:	Mammals:		
Order Chiroptera:	Bats:		
Acerodon spp.	Flying foxes	II	1/18/90
Pteropus spp. (except species with earlier date)	Flying foxes	II	1/18/90
Order Carnivora:	Carnivores: Cats, Bears, etc.:		
Felis pardalis (except subspecies with earlier date)	Ocelot	I	2/4/77
F. tigrina (except subspecies with earlier date)	Little spotted cat	I	2/4/77
F. weidii (except subspecies with earlier date)	Margay	I	2/4/77
Lynx (=*Felis*) *pardinus*	Iberian lynx	I	2/4/77
Ursus arctos (population of Mexico)	Mexican grizzly bear	I	7/1/75
Ursus arctos (Asian populations, including populations in Iran, Iraq, Syria, and Turkey, but not populations in USSR except for subspecies listed in Appendix I).	Brown bear	II	1/18/90
Class Aves:	Birds:		
Order Psittaciformes:	Parrots, Parakeets, Macaws, Lories:		
Amazona tucumana	Tucuman amazon	I	6/6/81
Ara maracana	Illiger's macaw	I	6/6/81
Cacatua moluccensis	Moluccan cockatoo	I	6/6/81
Order Coraciiformes:	Hornbills, Kingfishers, Rollers, Bee-eaters, Motmots:		
Buceros rhinoceros (except subspecies with earlier date)	Rhinoceros hornbill	II	1/18/90
Class Reptilia:	Reptiles:		
Order Squamata:	Lizards, Snakes:		
Dracaena paraquayensis	Caiman lizard	II	1/18/90
Shinisaurus crocodilorus	Chinese crocodile lizard	II	1/18/90
C. niloticus (populations in Botswana, Malawi, Mozambique and Zambia pursuant to ranching).	Nile crocodile	II	7/1/75
Class Reptilia:	Reptiles:		
Order Squamata:	Lizards, Snakes:		
Naja naja	Cobra	II	2/12/84
Ophiophaqus hannah	King cobra	II	2/12/84
Pytas mucosus	Oriental ratsnake, whipsnake	II	2/12/84
Class Osteichthyes:	Bony Fishes:		
Order Coelacanthiformes:	Coelacanth:		
Latimeria chalumnae	Coelacanth, Gombessa	I	7/1/75
Plant Kingdom:	Plants:		
Family Caryocaraceae:	Souari family:		
Caryocar costaricense	Ajo	II	7/1/75
Family Humiriaceae:	Humiria family:		
Vantanea barbourii	Caracolillo, Ira chiricana	II	7/1/75
Family Leguminosae (=Fabaceae):	Pea family:		
Cynometra hemitomophlla	Guapinol negro	II	7/1/75
Platymiscium pleiostachyum	Cristóbal, granadillo	II	7/1/75
Tachigali versicolor	Caña fistula	II	7/1/75
Family Moraceae:	Mulberry family:		
Batocarpus costaricensis	Ojoche macho, níspero colorado	II	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
Family Podocarpaceae:	Podocarp family:		
Podocarpus neriifolius		III(Nepal)	11/16/75
Family Welwitschiaceae:	Welwitschia family:		
Welwitschia bainesii (=*Welwitschia mirabilis*)	Welwitschia	II	7/1/75

§ 23.23 [Amended]

4. Amend paragraph (f) of § 23.23 by removing the following existing entries for particular species of plants and animals, and if all genera and species listed under the plant Family are deleted, also remove the Family heading as follows:

Species	Common name	Appendix	Date listed (month/day/year)
Class Mammalia:	Mammals:		
Order Carnivora:	Carnivores: Cats, Bears, etc.		
Ursus arctos nelsoni	Mexican grizzly bear	I	7/1/75
Class Aves:	Birds:		
Order Galliiformes:	Pheasants, Curassows, Megapodes, Holtzins:		
Francolinus ochropectus	Tadjoura francolin	II	7/1/75
F. swierstrai	Sweirstra's francolin	II	7/1/75
Plant Kingdom:	Plants:		
Family Araceae:	Arums:		
Alocasia Zebrina		I	7/1/15
Family Gentianaceae:	Gentians:		
Prepusa hookeriana	Scarlet-flowered prepusa	I	7/1/15
Family Melastomataceae:	Meadow-beauties:		
Lavoisiera itambana		I	7/1/75
Family Meliaceae:	Mahoganies:		
Guarea longipetiola	Cola de pava	I	7/1/15
Family Palmae (=Arecaceae):	Palms:		
Phoenix hanceana var. *philippinensis*		II	7/1/75
Salacca clemensiana		II	7/1/75
Family Podocarpaceae:	Podocarp family:		
Podocarpus costalis		I	7/1/75
Family Sterculiaceae:	Sterculias:		
Pteryqota excelsa (=*Basiloxylon excelsum*)		II	7/1/75

§ 23.23 [Amended]

5. Amend paragraph (f) of § 23.23 by adding to the list the following species or other groups of animals and plants in alphabetical order under the appropriate taxonomic categories:

Species	Common Name	Appendix	Date listed (month/day/year)
Class Mammalia:	Mammals:		
Order Chiroptera:	Bats:		
Acerodon spp.	Flying foxes	II	1/18/90
Pteropus spp. (except species with earlier date)	Flying foxes	II	1/18/90
Order Carnivora:	Carnivores: Cats, Bears, etc.:		
Felis pardalis (except subspecies with earlier date)	Ocelot	I	2/4/77
F. tigrina (except subspecies with earlier date)	Little spotted cat	I	2/4/77
F. weidii (except subspecies with earlier date)	Margay	I	2/4/77
Lynx (=*Felis*) *pardinus*	Iberian lynx	I	2/4/77
Ursus arctos (population of Mexico)	Mexican grizzly bear	I	7/1/75
Ursus arctos (Asian populations, including populations in Iran, Iraq, Syria, and Turkey, but not populations in USSR except for subspecies listed in Appendix I).	Brown bear	II	1/18/90
Class Aves:	Birds:		
Order Psittaciformes:	Parrots, Parakeets, Macaws, Lories:		
Amazona tucumana	Tucuman amazon	I	6/6/81
Ara maracana	Illiger's macaw	I	6/6/81
Cacatua moluccensis	Moluccan cockatoo	I	6/6/81
Order Coraciiformes:	Hornbills, Kingfishers, Rollers, Bee-eaters, Motmots:		
Buceros rhinoceros (except subspecies with earlier date)	Rhinoceros hornbill	II	1/18/90
Class Reptilia:	Reptiles:		
Order Squamata:	Lizards, Snakes:		
Dracaena paraquayensis	Caiman lizard	II	1/18/90
Shinisaurus crocodilorus	Chinese crocodile lizard	II	1/18/90

Species	Common Name	Appendix	Date listed (month/day/year)
Class Osteichthyes:	Bony Fishes:		
Order Osteoglossiformes:	Bony tongues:		
Scleropages formosus (population in Indonesia subject to export quota described by the Secretariat).	Asian bony-tongue	II	7/1/75
Phylum Cnidaria:	Coral-like Animals:		
Class Hydrozoa:	Sea ferns, Fire corals, Stinging medusae:		
Order Athecata:			
All species in the families Milleporidae and Stylasteridae (except the genus with an earlier date).		II	1/18/90
Class Alcyonaria:			
Order Coenothecalia:			
All species in the Order (except the genus with an earlier date)		II	1/18/90
Order Stoloniferia:			
All species in the family Tubiporidae: (except the genera with an earlier date).		II	1/18/90
Class Anthozoa:	Sea anomones, Corals:		
Order Scleractinia:	Stony Corals:		
All species in the Order (except the genera with an earlier date)		II	1/18/90
Plant Kingdom:	Plants:		
Family Amaryllidaceae:			
Galanthus spp. (and their natural hybrids)	Snowdrops	II	1/18/90
Sternbergia spp	Sternbergias	II	1/18/90
Family Apocynaceae:	Dogbanes:		
Pachypodium baronii (and its natural hybrids)	Elephant's trunk	I	7/1/75
P. brevicaule (and its natural hybrids)		I	7/1/75
P. decaryi (and its natural hybrids)		I	7/1/75
Rauvolfia serpentina (except chemical derivatives)	Snake-root devil-pepper	II	1/18/90
Family Berberidaceae:	May-apple family:		
Podophyllum hexandrum (=*P. emodi*) (except chemical derivatives)	Himalayan may-apple	II	1/18/90
Family Euphorbiaceae:	Spurges:		
Euphorbia subgenus *Lancanthis* dwarf species in Madagascar (and their natural hybrids).	Malagasy dwarf euphorbias	I	7/1/75
E. ambovombensis			
E. cylindrifolia			
E. decaryi			
E. francoisii			
E. moratii			
E. parvicyathophora			
E. primulifolia			
E. quartziticola			
E. tulearensis			
Family Orchidaceae	Orchids:		
Paphiopedilum spp	Asian tropical lady-slippers	I	7/1/75
Phragmipedium spp	New World tropical lady-slippers	I	7/1/75
Family Podophyllaceae see Berberidacae:	May-apple family:		
Family Zamiaceae:	Cycads:		
Chiqua spp	Columbian new chiquas	I	2/4/77

Dated: February 8, 1990.

Constance B. Harriman,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 90-3793 Filed 2-16-90; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 55, No. 34
Tuesday, February 20, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 919

[Docket No. AO-102-A6 and FV-88-132]

Peaches Grown in Mesa County, CO; Reopening and Extension of the Period To File Written Exceptions to Recommended Decision Amending Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Reopening and extension of the period to file written exceptions to Recommended Decision.

SUMMARY: Notice is hereby given that the time period for filing written exceptions to the Recommended Decision to amend marketing agreement and order for peaches grown in Mesa County, Colorado, is reopened and extended to February 28, 1990. This action will provide additional time for interested persons to review and analyze the proposed amendments and the documentation relating to the changes.

DATES: Written exceptions must be received by February 28, 1990.

ADDRESSES: Interested persons are invited to submit written exceptions in triplicate to the Hearing Clerk, United States Department of Agriculture, Room 1079, South Building, Washington, DC 20250-9200. All written exceptions will be available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456; telephone (202) 475-3919, or Joseph C. Perrin, Office-In-Charge, Northwest Marketing Field Office, 1220 SW Third Ave., Room 369, Portland, Oregon 97204, telephone (503) 221-2724.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—issued November 1, 1988, and published in the **Federal Register** on November 3, 1988 (53 FR 44407); Recommended Decision—issued November 20, 1989, and published in the **Federal Register** on November 24, 1989 (54 FR 48619).

The Recommended Decision inviting exceptions was issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act, and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and orders (7 CFR Part 900). Written exceptions to the Recommended Decision had to be filed by December 26, 1989.

A Mesa County peach grower has requested that the U.S. Department of Agriculture provide more time to review and analyze the hearing record, the Recommended Decision, and related documents regarding the proposed amendments and submit additional exceptions to the Recommended Decision.

The Department also received a letter from the administrative committee for the marketing order for peaches grown in Mesa County, Colorado. The committee objected to the extension of the comment period to the end of February. The committee indicated that the 1990 marketing season is fast approaching and that reopening and lengthening the comment period to the end of February will delay the Department's final decision. The Department believes that reopening and extending the period for filing exceptions to February 28, 1990, is warranted.

Reopening and extending the period in which written exceptions may be filed will provide interested persons additional time to review the Recommended Decision and submit written exceptions thereto. The Department does not expect the additional period for filing comments to unduly delay issuance of any final decision that may be issued concerning this matter. Accordingly, the period in which to file written exceptions is reopened and extended until February 28, 1990.

This notice is issued pursuant to the Act and the applicable rules of practice and procedure.

List of Subjects in 7 CFR Part 919

Marketing agreements, Peaches, Reporting and recordkeeping requirements.

Authority: Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).

Dated: February 13, 1990.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 90-3842 Filed 2-16-90; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1046

[Docket No. AO-123-A60; DA-90-002]

Milk in the Louisville-Lexington-Evansville Marketing Area; Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider changes in the Louisville-Lexington-Evansville order in response to various industry proposals. Proposals by Dairymen, Inc., Milk Marketing, Inc., Dean Foods Company, and the Carnation Company would amend the pooling requirements for a city plant and a country plant. Proponents indicate that such changes are needed to make additional milk available to meet the fluid needs of the market.

DATES: The hearing will convene at 9:00 a.m. on March 13, 1990.

ADDRESSES: The hearing will be held at the Executive West Motor Hotel, 830 Phillips Lane) Freedom Way at the Fairgrounds), Louisville, Kentucky 40209, 502/367-2251.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, USDA/AMS/Dairy Division, Order Forumlation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-2089.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and,

therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at Executive West Motor Hotel, 830 Phillips Lane (Freedom Way at the Fairgrounds), Louisville, Kentucky 40209, 502/367–2251, beginning at 9:00 a.m. on March 13, 1990, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Louisville-Lexington-Evansville marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modification thereof, to the tentative marketing agreement and to the order.

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (Pub. L. 96–354). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purposes of the Act, a dairy farm is a "small business" if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

Interested parties who wish to introduce exhibits should provide the Presiding Officer at the hearing with four copies of such exhibits for the official record. Also, it would be helpful if additional copies are available for the use of other participants at the hearing.

List of Subjects in 7 CFR Part 1046

Dairy products, Milk, Milk marketing orders.

The authority citation for 7 CFR part 1046 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Dairymen, Inc.

Proposal No. 1:

Revise § 1046.7(a)(1) as follows:

§ 1046.7 Pool plant.

* * * * *

(a) A city plant which meets the following requirements:

(1) The total quantity of fluid milk products, except filled milk, disposed of in Class I during the month is not less than 40 percent in each of the months of December and March through July, and 50 percent in each of the other months, of the total quantity of fluid milk products, except filled milk, that is physically received at such plant or diverted therefrom pursuant to § 1046.13; and

* * * * *

Proposal No. 2:

Revise § 1046.7(b) as follows:

§ 1046.7 Pool plant.

* * * * *

(b) A country plant from which milk or skim milk is delivered to city plants. Such deliveries, in excess of milk or skim milk transferred or diverted from such city plants, during any of the months of September through February must not be less than 50 percent, and during other months not less than 40 percent, of milk from persons described in § 1046.12(a)(1) and from handlers described in § 1046.9(c) that is physically received at such plant (except by diversion from other plants), or diverted therefrom pursuant to § 1046.13. The operator of a country plant may include milk diverted pursuant to § 1046.13(b) from such plant to a city plant as qualifying shipments in meeting up to one-half of the shipping percentage(s) specified in this paragraph.

* * * * *

Proposed by Milk Marketing, Inc.

Proposal No. 3:

Revise § 1046.7(a)(1) as follows:

§ 1046.7 Pool plant.

* * * * *

(a) A city plant which meets the following requirements:

(1) The total quantity of fluid milk products, except filled milk, disposed of in Class I is not less than 50 percent in each of the months of November through April, and 30 percent in each of the other months, of the total quantity of fluid milk products, except filled milk, physically received at such plant or diverted therefrom pursuant to § 1046.13; and

* * * * *

Proposed by Dean Foods Company

Proposal No. 4:

Revise § 1046.7(a)(1) as follows:

* * * * *

(a) A city plant which meets the following requirements:

(1) The total quantity of fluid milk products, except filled milk, disposed of in Class I is not less than 50 percent in each of the months of August through November and January and February, and 30 percent in each of the other months, of the total quantity of fluid milk products, except filled milk, physically received at such plant or diverted therefrom pursuant to § 1046.13; and

* * * * *

Proposed by Carnation Company

Proposal No. 5:

This proposal would revise § 1046.7(b) to provide that a pool plant means a country plant located in the marketing area or outside the marketing area in the States of Kentucky or Indiana which (1) receives a daily average of at least 25,000 pounds of milk from producers; (2) has shipped at least 45,000 pounds to "city plants" in the previous 12 months; (3) was a pool plant during the previous September-February; and (4) which agrees to the Market Administrator's request that it ship milk to be used for Class I purposes to "city plants" during the months of March through August. The market Administrator's call would not in any given month exceed 25 percent of the country plant's milk receipts for the previous month, unless the Market Administrator holds a meeting at which all interested parties are given the opportunity to appear and participate.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 6

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Arnold M. Stallings, P.O. Box 18030, Louisville, Kentucky 40218–0030, or the Hearing Clerk, Room 1083, South Building, United States Department of Agriculture, Washington, DC. 20250 or may be there inspected.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporters at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington office only)
Office of the Market Administrator, Louisville-Lexington-Evansville Marketing Area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on February 13, 1990.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 90-3840 Filed 2-16-90; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1106

[DA-90-008]

Milk in the Southwest Plains Marketing Area; Proposed Suspension and Proposed Termination of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension and proposed termination of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain provisions, and a proposal to terminate a provision of the Southwest Plains milk order. The suspension actions and termination action were both requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that represents producers who supply a significant portion of milk for the market.

The proposed suspension actions would suspend for the months of February through August 1990 the shipping standards for supply plants and the monthly requirement that a dairy farmer's milk be received at a pool plant in order to be eligible for diversion to nonpool plants. Mid-Am says these suspension actions are necessary for the efficient disposition of an increasing supply of milk and to eliminate the costly and inefficient movement of milk from supply plants that would have to be made to assure continued pricing and pooling of milk of producers who have historically supplied the market's fluid needs.

The proposed termination action would terminate a portion of the "producer" definition in the Southwest Plains order that prevents dairy farmers from being considered producers under the order during the months of February through July if they did not sufficiently supply the market during the previous fall months when fluid milk needs were seasonally greater. Mid-Am says this termination action is necessary because of changed marketing conditions and because, in some cases, the provision prevents cooperatives and other market suppliers from shipping milk of the advantageously located producers in supplying the fluid milk needs of distributing plants.

DATES: Comments are due on or before February 27, 1990.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-4829.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that these proposed actions would not have a significant economic impact on a substantial number of small entities. Such actions would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained therein.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), the suspension of the following provisions for the months of February through August 1990 and the termination of the following provisions of the order regulating the handling of milk in the Southwest Plains marketing area are being considered:

1. In § 1106.6, suspension of the words "during the month".

2. In § 1106.7(b)(1), suspension of the words "until any month of such period in which less than 20 percent of the milk received or diverted as previously specified, is shipped to plants described in paragraph (a) or (e) of this section. A plant not meeting such 20 percent requirement in any month of such February–August period shall be qualified in any remaining month of such period only if such transfers and diversions pursuant to paragraph (b)(2) of this section to plants described in paragraph (a) or (e) of this section are not less than 50 percent of receipts or diversions, as previously specified".

3. In § 1106.13, suspension of paragraph (d)(1) in its entirety.

4. In § 1106.12, termination of paragraph (b)(5) in its entirety.

All persons who want to send written data, views, or arguments about the proposed suspension and/or termination should send two copies of them to the USDA/AMS/Dairy Division, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, by the 7th day after the publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and make the proposed actions effective for February 1990.

The comments that are received will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension for February through August 1990 would suspend the shipping standards for supply plants that were previously associated with the market. The order defines a supply plant as a plant from which fluid milk products are transferred or diverted to distributing plants during the month. It also provides that in order to be pooled under the order during the months of September through January, 50 percent of a supply plant's receipts must be shipped to distributing plants each month. A supply plant that was pooled during each of the immediately preceding months of September through January shall continue to be pooled during the following months of February through August if 20 percent of its

receipts are shipped to distributing plants. Part of the requested suspension action would remove during the months of February 1990 through August 1990 the shipping standards for supply plants that were pooled under the order during the immediately preceding September through January period. These order provisions were last suspended from November 1988 through August 1989.

The proposed suspension action would also suspend the monthly requirement that a diary farmer's milk be received at a pool plant in order to be eligible for diversion to nonpool plants. The order currently provides that a dairy farmer's milk may be diverted to nonpool plants and still be priced under the order if at least one day's production of such person is physically received at a pool plant during the month. This order provision has been suspended in three previous suspension actions (April through July 1987; February through July 1988; and March through August 1989).

The proposed termination action would terminate the provision that prevents dairy farmers from being considered producers under the order during the months when supplies are abundant if they did not sufficiently supply the market during the fall months when fluid milk needs were seasonally greater. This provision is commonly known as a "dairy farmer for other markets" provision. The order currently provides that a dairy farmer cannot be a producer under the Southwest Plains order during the months of February through July unless during each of the immediately preceding months of September through November more than two-thirds of the producer's milk was pooled and priced under the order. This order provision has been suspended in each of the past three years.

The suspension actions were requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative associaton that represents a substantial number of producers who supply the market. Mid-Am contends that there will be ample supplies of direct-shipped producer milk to meet the fluid needs of plants during the February through August 1990 period. Producer receipts in the Southwest Plains order are increasing at a rate faster than Class I milk sales. Because of this, Mid-Am maintains, supplemental supply plant milk will not be needed to supply the fluid needs of Southwest Plains distributing plants during the February through August 1990 period. Additionally, Mid-Am contends that there is no need to require producers located some distance from pool plants to be received one time during the month when their milk can more economically be diverted to manufacturing plants in the production area. To require each producer to have his/her milk be received at least one time each month at a pool plant, Mid-Am says, will result in uneconomical and inefficient milk movements.

The requested termination also was proposed by Mid-Am. Mid-Am maintains that this termination action is warranted because of changed marketing conditions under the Southwest Plains and other marketing areas. According to Mid-Am, since the end of the Dairy Termination Program, milk from producers historically associated with the Southwest Plains order has been used to help meet the fluid milk needs to the South and Southeast of the Southwest Plains marketing area in the fall when milk supplies in those areas are short. Mid-Am claims that as milk supplies in those areas increase in the spring, supplemental milk from the Southwest Plains area is no longer needed to meet fluid milk requirements in those deficit areas and should be able to come back onto the Southwest Plains market.

List of Subjects in 7 CFR Part 1106

Dairy products, Milk, Milk marketing orders.

PART 1106—[AMENDED]

The authority citation for 7 CFR part 1106 continues to read as follows:

Authority: Secs. 1.19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Signed at Washington, DC, on: February 13, 1990.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 90–3841 Filed 2–16–90; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 330 and 331

RIN 3064–AB01

Deposit Insurance Coverage

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Proposed rule; public hearing, extension of comment period, and anticipated schedule for adoption of final regulations.

SUMMARY: This Notice sets forth the time and other particulars concerning a public hearing that the FDIC will conduct on the proposed amendments to its deposit insurance regulations which relate to "457 Plan" deposits. The proposed amendments to the FDIC's deposit insurance regulations (12 CFR parts 330 and 331) were published in the **Federal Register** on December 21, 1989 (54 FR 52,399). This Notice also provides notice of the FDIC's extension of the comment period for all of the proposed amendments until March 23, 1990. Finally, this Notice indicates the FDIC's anticipated timetable for adopting, in final form, the amended deposit insurance regulations.

DATES: Requests to participate in the public hearing must be received by Tuesday, March 6, 1990. Each participant must submit a summary of his or her written testimony by Friday, March 9, 1990. The public hearing will be held on Wednesday, March 14, 1990. The public comment period for all of the proposed amendments has been extended until Friday, March 23, 1990.

ADDRESSES: Requests to participate in the public hearing, summaries of testimony to be given at the hearing and all comments may be mailed to Hoyle L. Robinson, Executive Secretary, Room 6097, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, or may be hand-delivered to the same address between the hours of 9 a.m. and 5 p.m. on business days.

Hearing Location: Federal Deposit Insurance Corporation, Board of Directors' Room (6th Floor), 550 17th Street NW., Washington, DC 20429.

FOR FURTHER INFORMATION CONTACT: Roger A. Hood, Assistant General Counsel (202–898–3681), or Claude A. Rollin, Senior Attorney (202–898–3985), Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Background

On December 5, 1989, the Board of Directors of the FDIC approved the publication of numerous proposed amendments to the FDIC's deposit insurance regulations (12 CFR parts 330 and 331). The amendments were proposed, in part, to resolve existing differences between the deposit insurance rules of the FDIC and those of the former Federal Savings and Loan Insurance Corporation ("FSLIC"). One of those differences concerns the deposit insurance provided for deposit accounts established pursuant to a "457 Plan." A "457 Plan" is a deferred compensation plan established for the benefit of the employees of a state government, local government or tax-exempt organization which qualifies under section 457 of the Internal Revenue Code, 26 U.S.C. 457.

The FDIC staff has taken the position that deposit accounts established pursuant to a 457 Plan will, in essence, be insured up to $100,000 in the aggregate and not on a per-participant basis. By contrast, the FSLIC had insured such accounts on a per-participant basis. In the proposed amendments, the FDIC is proposing to codify its existing staff position and make it applicable to all insured depository institutions.

Public Hearing

Although the comment period is still open, the FDIC has already received a substantial volume of comment letters on the proposed amendments. The proposal most frequently commented on is the rule that would govern the deposit insurance afforded to 457 Plan deposits. For this reason, the FDIC Board of Directors voted, at its February 13, 1990 meeting, to hold a one-day public hearing on the proposed insurance rules governing 457 Plan deposits.

The FDIC will conduct the hearing on Wednesday, March 14, 1990 from 9:30 a.m. until 4 p.m. The hearing will be held in the FDIC's Board of Directors' Room which is located on the sixth floor of the FDIC's main building (550 17th Street NW., Washington, DC). At that hearing, representatives of the Division of Supervision, the Legal Division and the Division of Research and Statistics will receive oral comments from all interested persons, who have been scheduled in advance to appear, on 457 Plan deposit insurance coverage issues.

Participants in the public hearing are requested to provide testimony, written submissions, studies and analyses with regard to the following issues:

(1) The extent to which an employer (*i.e.*, a state government, local government or non-profit organization) has ownership interests in 457 Plan deposits;

(2) The extent to which, if 457 Plan deposits were lost, an employer would have an obligation under its contract to provide compensation to its employees;

(3) The extent to which the creditors of an employer which sponsors a 457 Plan can acquire rights in, or have access to, 457 Plan deposits;

(4) The extent to which the terms and conditions of various 457 Plan contracts provide 457 Plan participants with ownership interests in the deposits of such plans;

(5) The extent to which state law permits collateralization of state or local government 457 Plan deposits (*i.e.*, the extent to which 457 Plan deposits are considered to be funds of the state or local government under state law);

(6) The extent to which an employer can utilize 457 Plan deposits for purposes other than the payment of compensation to 457 Plan participants;

(7) The nature and scope of the benefits, if any, to employers from the language in 26 U.S.C. 457 which states that 457 Plans must provide that the employer is the sole owner of 457 Plan funds until they are distributed;

(8) The amount of the total assets in 457 Plans and the extent to which those assets are deposited in insured financial institutions; and

(9) Other relevant issues on the subject of 457 Plan deposit insurance coverage.

Persons wishing to participate in the hearing must send, or hand-deliver, a written request to participate in the hearing, so that it is received no later than Tuesday, March 6, 1990, to Hoyle L. Robinson, Executive Secretary, Room 6097, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. All requests will be time and date stamped upon receipt and oral presentations will be scheduled in the order in which requests are received. Participants will be limited to a 15 minute oral presentation and will be advised in writing of the time scheduled for their presentation. This procedure is necessary so that the hearing officers may adjust their schedules accordingly and so that alternative arrangements for the hearing may be made if more persons are expected to attend than the Board of Directors' room will accommodate. This deadline will also provide sufficient time to acknowledge receipt of the notices and inform participants of scheduling.

In addition, each participant must send, or hand-deliver, so that it is received no later than Friday, March 9, 1990, a written summary of his or her testimony to be given at the hearing, to Hoyle L. Robinson, Executive Secretary, Room 6097, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Extension of Comment Period

The Board of Directors also voted, at its February 13, 1990 meeting, to extend the comment period for all of the proposed amendments to the FDIC's deposit insurance regulations (12 CFR parts 330 and 331) from the current deadline (which is February 20, 1990) to March 23, 1990. This extension was approved to provide the public with additional time to comment on all of the substantive issues presented and to provide the staff with an opportunity to solicit comments through the public hearing on the proposed rules relating to 457 Plan deposits.

Schedule for Adoption of Final Regulations

In light of the scheduling of the public hearing and the extension of the comment period, the FDIC staff anticipates that it will not be in a position to present the final regulations to the FDIC's Board of Directors for their consideration until the middle of April, 1990. The Board of Directors indicated at its meeting on February 13, 1990, that, on the basis of staff representations, it would schedule consideration of the final version of the amended regulations for consideration by the Board no earlier than April 16, 1990.

By order of the Board of Directors, this 13th day of February, 1990.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 90-3844 Filed 2-16-90; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Chs. I and III

23 CFR Chs. I, II, III, and IV

33 CFR Ch. I

46 CFR Chs. I and III

49 CFR Subtitle A, Chs. II, III, IV, V and VI

[OST Docket No. 46574, Notice No. 90-7]

RIN 2105-AB52

Alcohol Abuse Prevention Program for the Transportation Industry

AGENCY: Office of the Secretary, DOT.

ACTION: Notice Reopening Comment Period.

SUMMARY: The Department of Transportation is reopening the comment period for DOT's Alcohol Abuse Prevention rulemaking (54 FR 46326, November 2, 1989) until March 9, 1990. That rule raised a variety of issues relating to possible DOT responses to alcohol abuse in the transportation industry.

DATES: Comments are due on or before March 9, 1990.

ADDRESSES: Comments on the ANPRM should be mailed to Documentary Services Division, C-55, Department of Transportation, Room 4107, Docket 46574, 400 Seventh Street, SW.,

Washington, DC 20590. In order to provide a copy for each modal administration's docket and to facilitate the Department's review, we request that an original and seven additional copies of the comments be submitted. Because of the size and complexity of the document, we also ask commenters to designate the section letters and numbers to which their comments refer. Comments will be available for review by the public at this address from 9 a.m. through 5 p.m., Monday through Friday. Persons wishing the agency to acknowledge receipt of their comments should include a stamped, self-addressed postcard with their comments. The Documentary Services Division will time and date-stamp the card and return it to the commenter. The comments will be reviewed and, in the event that further action is taken, they will be furnished to those modal administrations that are responsible for taking the action.

FOR FURTHER INFORMATION CONTACT: Neil Eisner, Assistant General Counsel for Regulations and Enforcement, or Gwyneth Radloff, Attorney, Department of Transportation, (202) 366-9305, 400 7th Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On January 31, 1990, the Air Transport Association of America (ATA) and the Airline Industrial Relations Conference (AIRCON) jointly requested the Department to extend the comment period for its alcohol abuse prevention rulemaking until March 9, 1990. The comment period closed on January 31, 1990. ATA/AIRCON want additional time to develop uniform industry positions on several controversial issues addressed by the ANPRM. Their next opportunity for high-level policy discussion will occur on March 8, 1990, when the ATA Board of Directors is scheduled to meet.

We grant their request and reopen the comment period until 5 p.m. on March 9, 1990. This action should not disadvantage any person, and will give the Department the benefit of informed comments from industry organizations whose members would be directly affected by any further action taken in this area.

Issued in Washington, DC on February 14, 1990.

Samuel K. Skinner,

Secretary of Transportation.

[FR Doc. 90-3920 Filed 2-15-90; 11:20 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

Expansion of Honolulu Port Limits

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations by extending the geographical limits of the port of Honolulu, Hawaii. The proposed change is being made as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

DATES: Comments must be received on or before April 23, 1990.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations and Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2119, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Walfish, Office of Inspection and Control, 202-566-9425.

SUPPLEMENTARY INFORMATION:

Background

Hawaii is not a continguous state and most of its imported goods are transported by ship. Customs has been requested to extend the geographical limits of the port of Honolulu, the present port of entry on Oahu, to include the new deep draft harbor, Barbers Point. Barbers Point Harbor is a joint project of the Federal Government and the State of Hawaii, both of which have expended approximately $70 million to develop this second commercial port on the Island of Oahu, scheduled for completion by June 1990. Honolulu, the State's primary port, is expected to exceed its capacity in the near future and the Barbers Point Harbor, in combination with the Honolulu Harbor, is expected to provide port facilities to meet Oahu's waterborne commerce needs for a 50-year period. The expanded harbor facilities will also result in significant net savings in overland trucking costs and reduced highway traffic in the Honolulu Harbor waterfront area.

Proposed Port Limits

In the list of Customs regions, districts, and ports of entry set out in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), Honolulu is listed as a port of entry under the district of Hawaii. The port limits of Honolulu were described in T.D. 53514 as "The territory embracing the 'Honolulu District,' the Honolulu Airport, Hickam Field, and all points of Pearl Harbor". Since the present definition of the port of Honolulu does not encompass the area of the deep draft harbor at Barbers Point, it is now proposed to redefine the limits of Honolulu port of entry to include "The territory embracing the 'Honolulu District', and 'Ewa District', Island of Oahu".

The "Honolulu District" and the "Ewa District" refer to tax districts on the Island of Oahu. Honolulu Airport, Hickam Field and Pearl Harbor are included in the Ewa District and are therefore not referred to by name in the proposed boundaries.

The proposed port limits would encompass virtually the entire industrial complex on Oahu. Expanding the limits of the port of entry would eliminate the collection of reimbursement for services presently required for inspectional services in the area not encompassed within the port of entry.

If the proposed change is adopted, the list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations (19 CFR 101.3(b)) will be amended accordingly.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 1.6, Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2119, Washington, DC.

Authority

This change is proposed under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp., Ch. II) and pursuant to authority provided by Treasury Department Order No. 101-5 (47 FR 2449).

Regulatory Flexibility Act

Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the United

States to accommodate the volume of Customs-related activity in various parts of the country. Although this change may have a limited effect upon some small entities in the areas involved, it is not expected to be significant because the extension of the limits of Customs ports of entry in other locations has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Regulatory Flexibility Act. Accordingly, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the amendment, if adopted, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

Because this proposal relates to the organization of the Customs Service, pursuant to section 1(a)(3) of Executive Order 12291, this document is not subject to the Executive Order.

Drafting Information

The principal author of this document was Earl Martin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Carol Hallett,

Commissioner of Customs.

Approved: February 13, 1990.

Salvatore R. Martoche,

Assistant Secretary of the Treasury.

[FR Doc. 90-3795 Filed 2-16-90; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

RIN 1219-AA10

Electrical Safety Standards for Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Extension of comment period.

SUMMARY: The Mine Safety and Health Administration (MSHA) is extending the period for public comment regarding the Agency's electrical safety standards for underground coal mines.

DATES: Written comments must be received on or before August 10, 1990.

ADDRESSES: Send comments to the Office of Standards, Regulations, and Variances, MSHA, Room 631, Ballston Towers No. 3, 4015 Wilson Boulevard, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION: On December 4, 1989, MSHA published a proposed rule (54 FR 50062) to revise the electrical safety standards for the underground coal mining industry. The comment period was scheduled to close on March 9, 1990 but in response to several requests from the mining community, the Agency is extending the comment period to August 10, 1990. All interested parties are encouraged to submit comments prior to that date.

Dated: February 12, 1990.

John B. Howerton,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 90-3758 Filed 2-16-90; 8:45 am]

BILLING CODE 4510-43-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 918

Louisiana Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Louisiana permanent regulatory program (hereinafter, referred to as the "Louisiana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertains to areas where mining is prohibited or limited; areas designated unsuitable for mining; requirements for permit applications; requirements for coal exploration; minimum requirements for information on environmental resources; reclamation and operations plans, and permits for special categories of mining; public participation, revision, renewals, or sale of permit rights; small operator assistance; bond and insurance requirements; permanent program performance standards; inspections; enforcement; and civil penalties. The amendment is intended to revise the Louisiana program to be consistent with the corresponding Federal standards.

This notice sets forth the times and locations that the Louisiana program and the proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is interested.

DATES: Written comments from the public must be received by 4:00 p.m., c.s.t. on March 22, 1990. If requested, a public hearing on the proposed amendment will be held on March 19, 1990. Requests to present oral testimony at the hearing must be received by 4 p.m., c.s.t. on March 7, 1990.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. James H. Moncrief at the address listed below.

Copies of the Louisiana program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Tulsa Field Office.

Mr. James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 550, Tulsa, OK 74135, Telephone: (918) 581-6430.

Department of Natural Resources, Office of Conservation, 625 N. 4th Street, Baton Rouge, Louisiana 70804, Telephone: (504) 342-5515.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Moncrief, Director, Tulsa Field Office, at the address or telephone number listed in **"ADDRESSES."**

SUPPLEMENTARY INFORMATION:

I. Background on the Louisiana Program

On October 10, 1980, the Secretary of the Interior conditionally approved the Louisiana program. General background information on the Louisiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Louisiana program can be found in the October 10, 1980, **Federal Register** (45 FR 67340). Subsequent actions concerning Louisiana's program can be found at 30 CFR 918.16.

II. Proposed Amendment

By letter dated January 19, 1990, (Administrative Record No. LA-295), Louisiana submitted a proposed amendment to its program under SMCRA. Louisiana submitted the proposed amendment in response to a July 9, 1986, letter (Administrative Record No. LA-265), a June 9, 1987,

letter (Administrative Record No. LA-261), a December 12, 1988, letter (Administrative Record No. LA-289), a May 11, 1989, letter (Administrative Record No. LA-291), and a November 16, 1989, letter (Administrative Record No. LA-294), that OSM sent to Louisiana in accordance with 30 CFR 732.17(d).

To comply with State rules for the Louisiana State Register, Louisiana's rules have been recodified in the proposed amendment.

The regulations that Louisiana proposes to amend are in subpart 1, chapter 1, General; subpart 2, chapter 11, Areas Designated by Action of Congress; chapter 15, State Process for Designating Areas Unsuitable for Surface Coal Mining Operations; subpart 3, chapter 17 and General Requirements for Permits; chapter 21, Coal Exploration and Development; chapters 23, 25 and 27, Surface Mining Permit Application; chapter 29, Permits for Special Categories of Mining; chapter 31, Public Participation, Approval of Permit Applications, and Permit Terms and Conditions; chapter 35, Revision, Renewal, and Transfer, Assignment, or Sale of Permit Rights; chapter 37, Small Operator Assistance; subpart 4, chapter 39, General Requirements of Bonding; chapter 41, Amount and Duration of Performance Bond; chapter 43, Form, Conditions and Terms of Performance Bonds and Liability Insurance; chapter 45, Procedures, Criteria and Schedule for Release of Performance Bond; chapter 47, Performance Bond Forfeiture Criteria and Procedures; subpart 5, chapters 51 and 53, Permanent Program Performance Standards; chapter 55, Special Permanent Program Performance Standards: Operations on Prime Farmland; chapter 59, Special Permanent Program Performance Standards: Coal Processing Plants; chapter 63, Inspections; chapter 64, Enforcement; chapter 69, Civil Penalties; and chapter 71, Individual Civil Penalties.

III Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Louisiana program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Tulsa Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by 4:00 p.m., c.s.t. on March 7, 1990. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **"ADDRESSES."** A written summary of each meeting will be made a part of the administrative record.

List of Subjects in 30 CFR Part 918

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: February 11, 1990.

Raymond L. Lowrie,

Assistant Director Western Field Operations.

[FR Doc. 90-3818 Filed 2-16-90; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 948

West Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing the receipt of revisions to a previously proposed amendment to the West Virginia permanent regulatory program (hereinafter referred to as the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). In accordance with 30 CFR 732.17(h), OSM is reopening the comment period to allow the public sufficient time to consider and comment on modifications submitted by West Virginia on February 7, 1990, to an amendment which was initially submitted by the State on April 26, 1989, and revised on December 19, 1989. The amendment contains revisions made by the West Virginia Legislative Rulemaking Review Committee and is intended to correct several typographical and editorial errors contained in the State's revised amendment of December 19, 1989. The current amendment contains modifications relating to definitions, permit application requirements, drainage and sediment control systems, blasting, premining and postmining land use, revegetation, prime farmlands, insurance and bonding, prospecting, topsoil, steep slope mining, inactive status, variances from approximate original contour, excess spoil disposal, backfilling and regarding, previously mined areas, underground mining, small operator assistance program, citizen's actions, designating areas unsuitable for mining, and inspection and enforcement.

This notice sets forth the times and locations that the West Virginia program and the revised proposed amendment to that program are available for public inspection and the reopened comment period during which interested persons may submit additional written comments on the revised proposed amendment.

DATES: Written comments must be received on or before 4:00 p.m. on March 7, 1990.

ADDRESSES: Written comments should be mailed or hand delivered to the Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, Attention: West Virginia Administrative Record, 603 Morris Street, Charleston, West Virginia 25301.

Copies of the revised proposed amendment, the initial amendment as amended, the West Virginia program, and the administrative record on the West Virginia program are available for public review and copying at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 9 a.m. to 4 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

West Virginia Department of Energy, 1615 Washington Street, East, Charleston, West Virginia 25311, Telephone: (304) 348–3500.

In addition, copies of the revised proposed amendment are available for inspection during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, Morgantown, West Virginia 26505, Telephone: (304) 291–4004.

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office, 101 Harper Park Drive, Beckley, West Virginia 25801, Telephone: (304) 255–5265.

Each requester may receive, free of charge, one single copy of the revised proposed amendment by contacting the OSM Charleston Field Office listed above.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Blankenship, Jr., Director, Charleston Field Office; Office of Surface Mining Reclamation and Enforcement; 603 Morris Street; Charleston, West Virginia 25301; Telephone (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program

On January 21, 1981, the Secretary of the Interior conditionally approved the West Virginia program. Information concerning the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the initial conditions of approval of the West Virginia program can be found in the January 21, 1981, **Federal Register** (46 FR 5915–5956). Subsequent actions concerning proposed amendments and the conditions of approval are codified at 30 CFR 948.11, 948.12, 948.13, 948.15, and 948.16.

II. Discussion of Proposed Amendment

In response to Federal rule changes, on April 26, 1989, the West Virginia Department of Energy submitted an amendment to OSM which constituted a major reform to the State's surface mining regulatory program and was intended to satisfy five of the remaining six conditions of program approval concerning augering, coal refuse disposal, applicant violator information, coal exploration, revegetation and show cause orders (Administrative Record No. WV 775).

On May 26, 1989, OSM published a notice in the **Federal Register** soliciting public comments on DOE's revised surface mining reclamation regulations to determine whether they were no less effective than the Federal regulations and no less stringent than SMCRA. The public comment period closed on June 26, 1989 (54 FR 22783–22785). At the request of the National Wildlife Federation, on June 26, 1989, OSM extended the comment period through July 11, 1989 (Administrative Record No. WV 795).

After completing its review of the State's initial amendment on October 12, 1989, OSM notified the State that there were several areas in which the proposed amendment appeared less effective than the Federal requirements (Administrative Record No. WV 799).

In response to OSM's issue letter of October 12, 1989, DOE submitted a revised program amendment on December 19, 1989, that is intended to satisfy all remaining program deficiencies (Administrative Record No. WV 807). The amendment contained modifications relating to permitting, haulroads, drainage and sediment control systems, blasting, fish and wildlife, revegetation, prime farmlands, insurance and bonding, coal exploration, signs, topsoil, hydrologic balance, steep slope mining, auger mining, inactive status, variances from approximate original contour, excess spoil disposal, backfilling and regarding, subsidence control, small operator assistance program, citizen's actions, designating areas unsuitable for mining, inspection and enforcement and coal refuse.

On January 2, 1990, OSM published a notice in the **Federal Register** announcing receipt of the State's proposed program amendment of December 19, 1989, and reopening the public comment period (55 FR 4–35). The public comment period closed on February 1, 1990.

On January 23, 1990, the West Virginia Legislative Rulemaking Review Committee made modifications to DOE's proposed surface mining recla-mation regulations which had been submitted to OSM on December 19, 1989. The bill containing the proposed legislative regulations with revisions was reported to House and Senate Judiciary Committees for further action on the same day.

On February 7, 1990, DOE provided OSM a listing of all modifications which were made by the Legislative Rulemaking Review Committee to its surface mining reclamation regulations. The State submitted the modifications as a revision to its proposed program amendment of April 26, 1989, as revised on December 19, 1989 (Administrative Record No. WV 821). The modifications are intended to correct several typographical and editorial errors contained in DOE's proposed legislative rules. The modifications concern definitions, permit application requirements, advertisement, maps, disposal of excess spoil, occupied dwellings, operations near public roads, removal of abandoned coal refuse disposal piles, fish and wildlife resources, parks and historic lands, prohibitions and limitations on mining, hydrologic information, geology, transfer assignment and sale of permit rights, permit renewals and extensions, permit findings and conditions, improvidently issued permits, sediment control, blasting procedures, variances, certified blasters, premining and postmining land use, revegetation plan, negative determination of prime farmland, performance bonds, incremental bonding, release of performance bonds, bond forfeitures, prospecting for less than 250 tons of coal, topsoil, steep slope mining, variances from approximate original contour, inactive status, disposal of excess spoil, backfilling and regarding, previously mined areas, underground mining, site development, small operator assistance program, citizen's request for inspections, public record, designating areas unsuitable for mining, notices of violations, cessation orders, show cause orders, civil penalty assessment procedures, and individual civil penalty assessment procedures.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is reopening the comment period on West Virginia's revised program amendment to provide the public an opportunity to reconsider the adequacy of the revisions. Specifically, OSM is seeking comments on the modifications to DOE's proposed surface mining reclamation regulations, Title 38, Series 2, that were adopted by the West Virginia Legislative

Rulemaking Review Committee on January 23, 1990, and submitted to OSM on February 7, 1990 (Administrative Record No. WV 821). OSM is seeking comments on whether the revised proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If approved, the amendment will become part of the West Virginia permanent regulatory program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the OSM Charleston Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

List of Subjects in 30 CFR Part 948

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: February 13, 1990.

Carl C. Close,

Assistant Director, Eastern Field Operations.

[FR Doc. 90-3819 Filed 2-16-90; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 152

[OPP-36173; FRL 3713-4]

Notification to Secretary of Agriculture of a Proposed Regulation on Criteria for Classifying Pesticides for Restricted-Use Due to Ground Water Concerns

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of Agriculture a proposed regulation under section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The proposed rule would add new criteria in 40 CFR 152.170 for selection of pesticide products as candidates for restricted-use classification. Pesticide products classified for restricted-use under authority of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 3(d) may be purchased and used only by certified pesticide applicators or individuals under their supervision. This action is required by section 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT:

By mail: David Alexander, Attorney Advisor, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 1120A, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-0592).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(A) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register**. If the Secretary comments in writing regarding the proposed regulation within 30 days after receiving it, the Administrator shall issue for publication in the **Federal Register**, with the proposed regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign the proposed regulation for publication in the **Federal Register** anytime after the 30-day period. As required by FIFRA section 25(a)(3), a copy of this proposed regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. As required by FIFRA section 25(d), a copy of this proposed regulation has also been forwarded to the Scientific Advisory Panel.

Authority: 7 U.S.C. 136 *et seq.*

Dated: February 12, 1990.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 90-3813 Filed 2-16-90; 8:45 am]

BILLING CODE 6560-50-D

40 CFR Part 281

[FRL 3725-5]

Mississippi; Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination on Mississippi's application for final approval, public hearing, and public comment period.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the State of Mississippi requesting final approval of its underground storage tank (UST) program under subtitle I of the Resource Conservation and Recovery Act (RCRA); (2) EPA has reviewed Mississippi's application and has made the tentative decision that Mississippi's UST program satisfies all of the requirements necessary to qualify for final approval; (3) Mississippi's application for final approval is now available for public review and copying; (4) public comments are requested; and (5) a public hearing will be held.

DATES: Requests to present oral testimony should be filed by March 16, 1990. Public hearings will be held on April 3, 1990. Mississippi will participate in the public hearing held by EPA. The 10:00 a.m. hearing will end at 1:00 p.m. The 7:00 p.m. hearing will continue until the end of testimony or 10:00 p.m., whichever comes first. Written comments must be received by April 13, 1990. EPA reserves the right to cancel the hearing should there be no significant public interest. Those informing EPA of their intention to testify will be notified of the cancellation.

ADDRESSES: Comments and requests to testify should be mailed to John K. Mason, Chief, Underground Storage Tank Section, U.S. EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365. Copies of Mississippi's final approval application are available between 8:00 a.m.-5:00 p.m., Monday through Friday, at the following locations for inspection and copying:

Mississippi Department of Environment Quality, 2380 Hwy. 80 West, Jackson, MS 39209, Phone: (601) 961-5142;

U.S. EPA Headquarters, Library, PM 211A, 401 M Street, SW., Washington, DC 20460, Phone: (202) 382-5926;

U.S. EPA Region IV, Library, 1st Floor, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Phone (404) 347-4216.

Two hearings will be held in the Embassy I Room, Metro Ramada Inn, Ellis Avenue and Interstate 20 West, Jackson, Mississippi. The first hearing will begin at 10:00 a.m. and end at 1:00 p.m. The second hearing will begin at 7:00 p.m. and continue until all testimony ends or until 10:00 p.m., whichever comes first.

FOR FURTHER INFORMATION CONTACT: John Mason, Chief, Underground Storage Tank Section, U.S. EPA Region IV, 345 Courtland St., NE., Atlanta, Ga. 30265. Comments should be sent to this address. Phone (404) 347-3866.

SUPPLEMENTARY INFORMATION:

A. Background

Section 9004 of RCRA authorizes EPA to approve state UST programs to operate in the State in lieu of the Federal UST program. Two types of approval may be granted. The first type, known as "interim approval", is a temporary approval which is granted if EPA determines that the state UST program is "no less stringent" than the Federal program (section (9004)(b), 42 U.S.C. 6926(c)) in the following elements: corrective action, financial responsibility, and new tank standards. While operating under interim approval, the State may complete the development of "no less stringent" standards for the following elements: release detection, release detection recordkeeping, release reporting, corrective action, and tank closure.

The second type of approval is a "final approval" that is granted if EPA determines that the State program: (1) Is "no less stringent" than the Federal UST program in all the following elements: corrective action, financial responsibility, new tank standards, release detection, release detection record reporting, tank closure, notification requirements of section 9004(a)(8); and (2) provides for adequate enforcement of compliance with UST standards (section 9004(a), 42 U.S.C. 6926(b)). EPA will consider all public comments on its tentative determination received at the hearing or during public comment period.

Issues raised by those comments may be the basis for a decision to deny final approval to Mississippi. EPA expects to make a final decision on whether or not to approve Mississippi's program within sixty (60) days after the date of the public hearing and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all major comments.

B. Mississippi

EPA has reviewed Mississippi's application, and has tentatively determined that the State's program meets all of the requirements necessary to qualify for final approval. Consequently, EPA intends to grant final approval to Mississippi to operate its program.

The Mississippi Department of Environmental Quality, through the Groundwater Division of the Bureau of Pollution Control, is dedicating a substantial effort to remediate, prevent, and control UST-related groundwater contamination under the Mississippi UST (MUST) Act of 1988. The MUST Act provided for the following:

(1) The Mississippi Groundwater Protection Trust Fund, to provide for contaminated site investigation, assessment, rehabilitation, and potable water supply restoration or replacement. An environmental protection fee of two tenths of one cent per gallon levied on every bonded distributor who sells or delivers motor fuels to a retailer in the State is the source of the trust fund.

(2) State authority to promulgate UST rules and regulations. The Federal UST technical and financial responsibility regulation of 40 CFR part 280 were adopted by reference.

(3) The assessment of a tank registration fee. The tank registration fee is the funding source for the administrative part of the State UST program.

(4) State authority to conduct UST-related compliance monitoring and enforcement activities.

(5) A provision to allow the State to take timely and effective corrective action.

(6) The authority for the State to access the Mississippi Pollution Emergency Fund to aid the State in taking timely and effective corrective action.

(7) A requirement to certify all tank installers, removers and repairers active within the State.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. Approval of Mississippi's UST program effectively suspends the applicability of the Federal UST regulations, thereby eliminating duplicative requirements for owners and operators of underground storage tanks in the State. Consequently, it does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 281

Administrative practice and procedure, Hazardous material, State program approval, and Underground storage tanks.

Authority: This notice is issued under the authority of section 9004 of the Solid Waste Disposal Waste Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Joseph R. Franzmathes,

Acting Regional Administrator

[FR Doc. 90-3815 Filed 2-16-90; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 29

[OST Docket No. 62; Notice 90-5]

RIN 2105-AA08

Consolidation of Grants to United States Insular Areas

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: This action withdraws a proposal of the Department of Transportation (DOT) to consolidate six grant programs that currently provide financial assistance to United States insular areas. The change would have implemented title V of Public Law 95-134. The Department has concluded that the proposed rule would not necessarily increase the efficiency of the grant-making procedures at the Federal and local levels and is, therefore, withdrawing the proposal.

EFFECTIVE DATE: February 20, 1990.

FOR FURTHER INFORMATION CONTACT: Christopher Bertram, Office of Programs and Budget, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366-9669.

SUPPLEMENTARY INFORMATION: On January 8, 1979, the Office of the Secretary of the Department of Transportation (DOT) published a Notice of Proposed Rulemaking (44 FR 1765) proposing to implement title V of Public Law 95-134, which permits Departments and agencies to consolidate grant programs, reduce reporting requirements, and waive local matching fund requirements. The Department received two comments in response to the NPRM. These were from the Mariana Island Airport Authority and the Guam Airport Authority. Both comments responded negatively to the NPRM. The comments mainly criticized the NPRM for consolidating the Airport Development Aid Program (ADAP) administered by the Federal Aviation Administration (FAA) within the six programs proposed and making the Federal Highway Administration the responsible agency. The comments

suggested that consolidation of DOT grant programs and elimination of some application and reporting requirements would not necessarily improve the efficiency of the grant-making requirements at Federal and local levels.

The Department agrees with the commenters and has decided to withdraw the proposal and terminate the rulemaking.

For these reasons, the January 8, 1979, proposal to implement title V of Public Law 95–134 is withdrawn.

Issued this 8th day of February, 1990, at Washington, DC.

Samuel K. Skinner,

Secretary of Transportation.

[FR Doc. 90–3753 Filed 2–16–90; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

Northeast Multispecies Fishery; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearings and request for comments.

SUMMARY: The New England Fishery Management Council (Council) will hold public hearings on proposals to be included in Amendment 4 to the Northeast Multispecies Fishery Management Plan (FMP).

DATES: Written comments should be submitted on or before March 2, 1990, to the address below. See "**SUPPLEMENTARY INFORMATION**" for dates, times, and locations of the hearings.

ADDRESSES: Written comments should be sent to Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway (Route 1), Saugus, MA 01906. Copies of the public hearing document may be obtained from this address. Clearly mark the outside of the envelope "Request for Amendment 4 public hearing document".

FOR FURTHER INFORMATION CONTACT: Christopher Kellogg, Fishery Analyst, (617) 231–0422.

SUPPLEMENTARY INFORMATION: The Council is considering the following proposals for inclusion in Amendment 4 to the FMP:

(1) Replace the Exempted Fisheries Program (except for northern shrimp) with an experimental fishery with the following provisions: (a) allow the Regional Director, Northeast Region, the flexibility to issue or deny permits based on his judgment of whether a particular fishing activity has caused an unacceptable level of harm to stocks of regulated species in the Exempted Fisheries Area; the existing permit period, a minimum of 7 and a maximum of 30 days, would be retained; (b) vessels in the exempted fishery for shrimp could not also be in an experimental fishery for another small mesh species; (c) change the existing Exempted Fishery Program reporting system by requiring fishermen to report the 10 minute square areas in which they fished instead of a single LORAN bearing, the amount of fishing time, depth range, and mesh size used; (d) a permit holder must carry a sea sampler if requested to do so by the Regional Director; and (e) the bycatch of regulated species would be limited to 10 percent of the target species on each trip and to 10 percent of the target species for the 7 to 30 day reporting period.

(2) Measures to reduce bycatch in the northern shrimp fishery include: (a) limit the shrimp season to January through March until the Council approves shrimp gear that allows sufficient escapement of undersized regulated species; (b) vessels in the exempted fishery for shrimp could not also be in an experimental fishery for another small mesh species; the bycatch limits for regulated species would be 25 percent of shrimp landings on a per trip basis and 10 percent of shrimp landings over the 7 to 30 day reporting period; (c) approved shrimp gear would be required throughout the shrimp season; and (d) prior to each shrimp season, the Council, in consultation with the Northern Shrimp Board of the Atlantic States Marine Fisheries Commission and NMFS, would determine if a particular type of gear provided sufficient escapement of small finfish.

Alternatives: (a) Reduce the percentage bycatch allowance; and (b) eliminate the fishery for northern shrimp.

(3) Include silver hake (whiting), red hake, and ocean pout in the FMP Management Unit.

(4) Establish a 2½ inch minimum mesh size (inside measurement) to apply throughout the range of species managed under the FMP. The mesh size requirement would initially apply to 160 meshes counted from the rear end of a trawl net and there would be a three year phase-in period before it applied to all mesh in the net. This measure would apply to multispecies fisheries, such as the exempted fisheries in the Gulf of Maine not otherwise subject to the 5½ inch mesh size regulation. The following are exceptions: (a) There would be an exemption for a directed Loligo squid fishery in July and August and a 10 percent per trip bycatch allowance of whiting and regulated species in the Loligo fishery; and (b) the fisheries for northern shrimp and herring would be exempt from this measure; operators of boats fishing for herring, however, must limit their bycatch of whiting and regulated species to 1 percent of their herring landings.

Alternative: Establish minimum fish sizes for small mesh species.

(5) Change the designation of the Cultivator Shoal whiting fishery from an experimental fishery and allow it to continue within boundaries and during times established by the Council on an annual basis. The boundaries of the fishery are initially defined by the following LORAN C lines; (a) LORAN 5930–X–11450 on the southeast; (b) LORAN 5930–X–12000 on the northeast; (c) LORAN 5930–Y–31350 on the northwest; and (d) LORAN 5930–Y–31200 on the southeast. For the first year, and until changed by the Council, the fishery will be allowed to occur from June 15 through October 31 within the existing LORAN C boundaries; furthermore, a special permit from the Regional Director will be required to fish for whiting in the prescribed area. Permit conditions are: (a) A trip bycatch limit of 1 percent of regulated species; (b) a minimum mesh size of 2½ inches in the cod end and extension piece (160 meshes from the end of the net); and (c) reports of location fished by ten minute square areas. Periodic sea sampling will continue to determine if changes in the times and areas fished are needed and to determine the bycatch of regulated species, especially haddock. There will be a full review of data annually before changes of fishing dates.

(6) Authorize the Director, Northeast Region, to close a part of the Southern New England yellowtail flounder closure area or the Nantucket Lightship area to protect large numbers of juvenile yellowtail flounder, based on bimonthly sea sampling data.

(7) When fishing in the Regulated Mesh Area, vessels will be allowed to carry only mesh of at least the regulated size or larger.

Alternative: Restrict the carrying of small mesh which is readily available for use while fishing or transiting the Regulated Mesh Area.

The hearings are scheduled as follows:

1. February 20, 1990, 7 p.m.—NMFS Conference Room, One Blackburn Drive, Gloucester, Massachusetts.

2. February 20, 1990, 7 p.m.—Skipper's Inn, 110 Middle Street, Fairhaven, Massachusetts.
3. February 21, 1990, 7 p.m.—Rockland High School, 400 Broadway, Rockland, Maine.
4. February 21, 1990, 7 p.m.—Sheraton Inn, Route 132 & Bearse's Way, Hyannis, Massachusetts.
5. February 22, 1990, 7 p.m.—Holiday Inn, I–95 Traffic Circle & Woodbury Avenue, Portsmouth, New Hampshire.
6. February 22, 1990, 7 p.m., Dutch Inn, Great Island Road, Galilee, Rhode Island.
7. February 23, 1990, 7 p.m.—Holiday Inn, 88 Spring Street, Portland, Maine.
8. February 26, 1990, 7:30 p.m.—Chamber of Commerce Office, Main Street, Montauk, New York.
9. February 27, 1990, 7 p.m.—Township Fire Company, W. Atlantic Avenue (Route 34), South Wall, New Jersey.

Dated: February 12, 1990.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90–3764 Filed 2–16–90; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 55, No. 34
Tuesday, February 20, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Regulation and Working Group on Model Rules; Public Meetings

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of meetings of the Committee on Regulation and the Working Group on Model Rules of the Administrative Conference of the United States.

Committee on Regulation

Date: Tuesday, March 6, 1990.
Time: 2 p.m.–5 p.m.
Location: Administrative Conference, 2120 L Street NW., Suite 500, Washington, DC (Library, 5th floor).
Agenda: The committee will meet to discuss a study of disclosure of risk information, conducted by Professor Michael Baram of Boston University School of Law. The Committee may also continue its consideration of James T. O'Reilly's study of the drug approval process of the Food and Drug Administration for AIDS drugs.
Contact: David M. Pritzker, 202–254–7065.

Working Group on Model Rules

Date: Friday, April 6, 1990.
Time: 12 p.m.
Location: Administrative Conference of the United States Library, 2120 L Street NW., Suite 500, Washington, DC.
Agenda: The committee will meet as part of an ongoing effort to develop model rules of practice and procedure which can be used by Federal agencies in formal adjudications.
Contact: Gary J. Edles or Jeffrey Lubbers, 202–254–7020.

Public Participation

Attendance at the committee meetings is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least one day in advance of the meeting. The committee chairman may permit members of the public to present oral statements at meetings. Any member of the public may file a written statement with a committee before, during, or after a meeting. Minutes of the meetings will be available on request. The contact person's mailing address is: Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037.

Dated: February 13, 1990.

Jeffrey S. Lubbers,
Research Director.

[FR Doc. 90–3828 Filed 2–16–90; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 90–015]

Receipt of Permit Applications for Release Into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that seven applications for permits to release genetically engineered organisms into the environment are being reviewed by the Animal and Plant Health Inspection Service. The applications have been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

FOR FURTHER INFORMATION CONTACT: Mary Petrie, Program Analyst, Biotechnology, Biologics, and Environmental Protection, Biotechnology Permit Unit, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 844, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) in the United States, certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following applications for permits to release genetically engineered organisms into the environment:

Application No.	Applicant	Date received	Organism	Field test location
90–016–01	Crop Genetics International	01–16–90	Clavibacter xyli subsp. cynodontis genetically engineered to produce the delta-endotoxin of Bacillus thuringiensis in corn.	Maryland
90–016–04	Calgene, Inc.	01–16–90	Cotton plants genetically engineered for tolerance to the herbicide bromoxynil.	Mississippi
90–019–01	Calgene, Inc.	01–19–90	Tomato plants genetically engineered to contain the anti-sense polygalacturonase gene.	California
90–023–01	Monsanto Agricultural Company	01–23–90	Cotton plants genetically engineered for tolerance to the herbicide glyphosate.	Alabama
90–025–01	Monsanto Agricultural Company	01–25–90	Cotton plants genetically engineered to contain the delta-endotoxin gene from Bacillu thuringiensis.	Arizona/Illinois
90–025–05	Monsanto Agricultural Company	01–25–90	Cotton plants genetically engineered for tolerance to the herbicide glyphosate.	Arizona/Illinois

Application No.	Applicant	Date received	Organism	Field test location
90-029-01	Louisiana State University	01-29-90	Rice plants genetically engineered to contain an antibiotic resistant marker gene.	Louisiana

Done in Washington, DC, this 14th day of February 1990.

Larry B. Slagel,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-3847 Filed 2-16-90; 8:45 am]

BILLING CODE 3410-34-M

COMMISSION ON CIVIL RIGHTS

Arkansas Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Arkansas Advisory Committee to the Commission will conduct a community forum on the topic of race relations in the Arkansas Delta from 1 p.m.–5:30 p.m. and from 7 p.m.–9 p.m. on March 21, 1990, and from 9 a.m.–4 p.m. on March 22, 1990. The forum will be held in the Fine Arts Center at the Phillips County Community College, Campus Drive, Helena, Arkansas 72342. The purpose of the forum will be to receive information identifying civil rights issues, and developments and efforts to ameliorate any problems concerning discrimination against black persons in the Arkansas Delta. Public officials, legislators and representatives from government and community agencies will be invited to participate. An open session will provide opportunity for members of the general public to present information to the Advisory Committee.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Alan Patteson Jr., or William F. Muldrow, Civil Rights Analyst of the Central Regional Division (816) 426–5253, (TDD 816–426–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 12, 1990.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 90-3830 Filed 2-16-90; 8:45 am]

BILLING CODE 6335-01-M

Florida Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the regulations of the U.S. Commission on Civil Rights (Commission), that a meeting of the Florida Advisory Committee (Commission), that a meeting of the Florida Advisory Committee (Committee) to the Commission will convene at 2 p.m. and adjourn at 5 p.m. on March 8, 1990, at the Holiday Inn (Downtown) 111 W. Fortune St., Tampa, Florida 33602. The purpose of the meeting is 1) to discuss the status of the Commission; 2) hear a report on Civil Rights progress and/or problems in the State; and 3) to plan a project for Fiscal Year 1990.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Michael Moorhead (904/392/2211) or Bobby D. Doctor, Commission Staff at (202/523–5264); TDD (202/376–8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the regional division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the regulations of the Commission.

Dated at Washington, DC, February 15, 1990.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 90-3831 Filed 2-16-90; 8:45 am]

BILLING CODE 6335-01-M

Hawaii Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Hawaii Advisory Committee to the Commission will convene at 9 a.m. and adjourn at 12 noon, on March 13, 1990, at the Waikiki Trade Center, 2255 Kuhio Avenue, 11th Floor conference room, Honolulu, Hawaii, 96815. The purpose of the meeting is to plan for completion of the Hawaiian Homelands project and review current civil rights developments in the State.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Andre S. Tatibouet, or Philip Montez, Director of the Western Regional Division (213) 894–3437, TDD (213) 894–0508. Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, DC, February 5, 1990.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 90-3832 Filed 2-16-90; 8:45 am]

BILLING CODE 6335-01-M

West Virginia Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the West Virginia Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 4 p.m. on March 20, 1990, at the Holiday Inn (Heart O' Town), 100 Washington Street, Charleston, WV 25301. The purpose of the meeting is to (1) discuss the status of the Commission; (2) to hear a report on Civil Rights progress and/or problems in the State; and (3) to plan a project for Fiscal Year 1990.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Adam R. Kelly, (304/652–4141) or Bobby Doctor, CCR staff at 202/523–5264;) or TDD (202/376–8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the regional division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 15, 1990.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 90-3833 Filed 2-16-90; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-405]

Cellular Mobile Telephones and Subassemblies From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On November 28, 1989, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on cellular mobile telephones and subassemblies from Japan. The review covers one manufacturer of this merchandise and the period December 1, 1987 through November 30, 1988.

We gave interested parties an opportunity to comment on our preliminary results. We received no comments. The final results of review are unchanged from those presented in the preliminary results.

EFFECTIVE DATE: February 20, 1990.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro or Holly Kuga, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPPLEMENTARY INFORMATION:

Background

On November 28, 1989, the Department of Commerce ("the Department") published in the Federal Register (54 FR 48922) the preliminary results of its administrative review of the antidumping duty order on cellular mobile telephones and subassemblies from Japan (50 FR 51724, December 19, 1985). We have now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS number(s).

Imports covered by this review are cellular mobile telephones ("CMTs") CMT transceivers, CMT control units, and certain subassemblies thereof, which meet the tests set forth below. CMTs are radio-telephone equipment designed to operate in a cellular radio-telephone system, *i.e.*, a system that permits mobile telephones to communicate with traditional land-line telephones via a base station, and that permits multiple simultaneous use of particular radio frequencies through the division of the system into independent cells, each of which has its own transceiving base station. Each CMT generally consists of (1) a transceiver, *i.e.*, a box of electronic subassemblies which receives and transmits calls; and (2) a control unit, *i.e.*, a handset and cradle resembling a modern telephone, which permits a motor-vehicle driver or passenger to dial, speak, and hear a call. They are designed to use motor vehicle power sources. Cellular transportable telephones, which are designed to use either motor vehicle power sources or, alternatively, portable power sources, are included in this antidumping duty order.

Subassemblies are any completed or partially completed circuit modules, the value of which is equal to or greater than five dollars, and which are dedicated exclusively for use in CMT transceivers or control units. The term "dedicated exclusively for use" only encompasses those subassemblies that are specifically designed for use in CMTs, and could not be used, absent alteration, in a non-CMT device. The Department selected the five dollar value for defining the scope since this is a value that it has determined is equivalent to a "major" subassembly. The Department feels that a dollar cutoff point is a more workable standard than a subjective determination such as whether a circuit module is "substantially complete." Examples of subassemblies which may fall within this definition are circuit modules containing any of the following circuitry or combinations thereof: audio processing, signal processing (logic), RF, IF, synthesizer, duplexer, power supply, power amplification, transmitter and exciter. The presumption is that CMT subassemblies are covered by the order unless an importer can prove otherwise. An importer will have to file a declaration with the Customs Service to the effect that a particular CMT subassembly is not dedicated exclusively for use in CTMs or that the dollar value is less than five dollars, if he wishes to be excluded from the order.

The following merchandise has been excluded from this order: pocket-size self-contained portable cellular telephones, cellular base stations or base station apparatus, cellular switches, and mobile telephones designed for operation on other, non-cellular, mobile telephone systems.

Cellular mobile telephones and subassemblies were classified under Tariff Schedules of the United States Annotated item numbers 685.28 and 685.33; they are currently classified under HTS item numbers 8525.20.60, 8525.10.80, 8527.90.80, 8529.10.60, and 8529.90.50, 8542.20.00, and 8542.80.00. The HTS numbers are provided for convenience and customs purposes. The written product description remains dispositive.

The review covers TDK Corporation ("TDK"), a manufacturer of this merchandise and the period December 1, 1987 through November 30, 1988.

Final Results of the Review

We gave interested parties an opportunity to comment on our preliminary results. We received no comments. The final results of our review are the same as those presented in the preliminary results of review, and we determine that for the period December 1, 1987 through November 30, 1988, a margin of .95 percent exists for TDK.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. Individual differences between United States price and foreign market value may vary from the percentage stated above.

Further, as provided for in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margin shall be required for TDK. For shipments from the remaining known manufacturers and exporters not covered by this review, the cash deposit will continue to be at the latest rate applicable to each of those firms. For any future entries of this merchandise from a new exporter not covered in this or prior reviews, whose first shipments occurred after November 30, 1988 and who is unrelated to any reviewed firm, a cash deposit of .95 percent shall be required. These deposit requirements are effective for all shipments of Japanese cellular mobile

telephones and subassemblies entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Department's regulations.

Dated: February 9, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-3800 Filed 2-16-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-428-805]

Initiation of Antidumping Duty Investigation: Pressure Sensitive PVC Battery Covers From the Federal Republic of Germany

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating an antidumping duty investigation to determine whether imports of pressure sensitive PVC battery covers (battery covers) from the Federal Republic of Germany (FRG) are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of battery covers from the FRG are materially injuring, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before March 5, 1990. If that determination is affirmative, we will make a preliminary determination on or before June 8, 1990.

EFFECTIVE DATE: February 20, 1990.

FOR FURTHER INFORMATION CONTACT: Louis Apple or Joel Fischl, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-1769 or (202) 377-3003, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On January 19, 1990, we received a petition filed in proper form by National Label Company. In compliance with the filing requirements of the Department's regulations (19 CFR 353.12), petitioner alleges that imports of battery covers from the FRG are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

Petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act, and because it has filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), (F), or (G) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in § 353.14 of the Department's regulations.

United States Price and Foreign Market Value

Petitioner's estimate of United States Price (USP) for battery covers is based on battery cover invoices issued by the West German manufacturer to a U.S. customer.

Petitioner's estimate of Foreign Market Value (FMV) for battery covers is based on (1) a 1986 price list, which is the best home and third-country market price information available to the petitioner, and (2) the petitioner's costs adjusted for known differences with the West German manufacturer's costs. Petitioner added the statutory eight percent profit minimum, pursuant to section 773(e) of the Act, to the West German manufacturer's estimated costs. We are not basing FMV on the 1986 price list noted above, because the price list is outdated, and therefore unreliable.

Petitioner also alleges sales below the cost of production. Given that the allegation is based on an outdated 1986 price list, pursuant to section 773(b) of the Act, we have determined that we do not have reasonable grounds to believe or suspect that there are sales below the cost of production. Therefore, we are not initiating a cost investigation.

Comparison of FMV, based on petitioner's costs adjusted for known differences with the West German manufacturer, and USP results in dumping margins of 38 percent to 60 percent, depending on the size of the battery cover.

Initiation of Investigation

Under section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to the petitioner supporting the allegations.

We have examined the petition on battery covers from the FRG and found that the petition meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of battery covers from the FRG are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by June 8, 1990.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS subheadings. The HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive.

Pressure sensitive PVC battery covers are designed to provide a protective and decorative cover for ready-to-use dry cell consumer batteries. Such a cover has at least two, and as many as three layers of PVC film, in addition to a layer of adhesive material and a layer of vaporized aluminum. Battery covers are currently provided for under HTS subheading 8506.90.00.003. Prior to January 1, 1989, battery covers were classifiable under item 682.9500 of the Tariff Schedules of the United States Annotated (TSUSA).

ITC Notification

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in the Department's files, provided the ITC confirms in writing that it will not disclose such information either publicly or under administative protective order without the written consent of the Deputy Assistant Secretary for Investigations.

Preliminary Determination by ITC

The ITC will determine by March 5, 1990, whether there is a reasonable indication that imports of battery covers from the FRG are materially injuring, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act.

Dated: February 8, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-3804 Filed 2-16-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-001]

Leather Wearing Apparel From Mexico; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On December 29, 1989, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on leather wearing apparel from Mexico. We have now completed that review and determine the total bounty or grant to be *de minimis* during the period January 1, 1986 through December 31, 1987.

EFFECTIVE DATE: February 20, 1990.

FOR FURTHER INFORMATION CONTACT: Britt Doughtie or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On December 29, 1989, the Department of Commerce ("the Department") published in the **Federal Register** (54 FR 53673) the preliminary results of its administrative review of the countervailing duty order on leather wearing apparel from Mexico (46 FR 21357; April 10, 1981). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Tariff Act").

Scope of Review

Imports covered by this review are shipments of Mexican leather wearing apparel. These products include leather coats and jackets for men, boys, women, girls and infants, and other leather apparel products including leather vests, pants and shorts. Also included are outer leather shells and parts and pieces of leather wearing apparel. During the review periods, such merchandise was classified under item numbers 791.7620, 791.7640, and 791.7660 of the Tariff Schedules of the United States Annotated. This merchandise is currently classified under item numbers 4203.10.4030, 4203.10.4060 and 4203.10.4090 of the Harmonized Tariff Schedule (HTS). The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1986 through December 31, 1987 and eight programs: (1) FOMEX; (2) FOGAIN; (3) CEPROFI; (4) FONEI; (5) Import duty reductions and expenses; (6) NDP preferential discounts; (7) Article 15 loans; and (8) State tax incentives.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

Final Results of Review

As a result of our review, we determined the total bounty or grant to be 0.31 percent *ad valorem* during the period January 1, 1986 through December 31, 1986, and 0.06 percent *ad valorem* during the period January 1, 1987 through December 31, 1987. The Department considers any rate less than 0.50 percent *ad valorem* to be *de minimis*.

Therefore, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of this merchandise exported on or after January 1, 1986 and on or before December 31, 1987. The Department will also instruct the Customs Service to waive deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: February 9, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-3798 Filed 2-16-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-005]

Litharge, Red Lead and Lead Stabilizers From Mexico; Final Results of Changed Circumstances Countervailing Duty Administrative Review and Revocation of Countervailing Duty Order (In Part)

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of Final Results of Changed Circumstances Countervailing Duty Administrative Review and Revocation of Countervailing Duty Order (In Part).

SUMMARY: On December 29, 1989, the Department of Commerce published the preliminary results of its changed circumstances administrative review and intent to revoke (in part) the countervailing duty order on litharge, red lead and lead stabilizers from Mexico. We have now completed that review and determine to revoke the countervailing duty order with respect to lead stabilizers from Mexico effective August 24, 1986.

EFFECTIVE DATE: February 20, 1990.

FOR FURTHER INFORMATION CONTACT: Philip Pia or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC. 20230; 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On December 29, 1989, the Department of Commerce ("the Department") published in the **Federal Register** (54 FR 53669) the preliminary

results of its changed circumstances administrative review and intent to revoke (in part) the countervailing duty order on litharge, red lead and lead stabilizers from Mexico (47 FR 54847; December 6, 1982). The Department has now completed that review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by this review are lead stabilizers from Mexico. Through 1988, such merchandise was classifiable under item numbers 419.0400 and 473.9000 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under the following item numbers of the Harmonized Tariff Schedule (HTS):

2824.90.50, 2825.90.50, 2826.19.00, 2826.90.00, 2827.39.50, 2827.49.50, 2827.59.50, 2827.60.50, 2829.90.50, 2830.90.00, 2832.30.50, 2833.29.50, 2834.10.50, 2835.10.00, 2835.29.50, 2836.70.00, 2837.19.00, 2839.90.00, 2840.20.00, 2841.10.00, 2841.20.00, 2841.50.00, 2841.70.50, 2841.90.10, 2841.90.50, 2842.90.00, 2850.00.50, 3206.49.50, 3206.20.00, 3206.30.00, 3207.10.00, 3207.30.00, and 3212.90.00.

The HTS item numbers are provide for convenience and Customs purposes. The written description remains dispositive.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results and intent to revoke. We received no comments.

Final Results of Review and Revocation

As a result of our changed circumstances administrative review, we are revoking the countervailing duty order with respect to lead stabilizers from Mexico. The effective date of the revocation is August 24, 1986.

Therefore, the Department will instruct the Customs Service to terminate the suspension of liquidation requirement and refund any cash deposits of estimated countervailing duties made on any shipments of lead stabilizers from Mexico entered, or withdrawn from warehouse, for consumption on or after August 24, 1986.

This changed circumstances administrative review, revocation and notice are in accordance with sections 751(b) and (c) of the Tariff Act (19 U.S.C. 1675 (b) and (c)) and 19 CFR 355.22 and 355.25.

Dated: February 12, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-3801 Filed 2-16-90; 8:45 am]

BILLING CODE 3570-DS-M

[C-201-015]

Unprocessed Float Glass From Mexico; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On December 30, 1988, the Department of Commerce published the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on unprocessed float glass from Mexico. We have now completed that review and determine that the signatories to the suspension agreement have complied with the terms with the terms of the suspension agreement during the period January 1, 1986 through December 31, 1986.

EFFECTIVE DATE: February 20, 1990.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION

Background

On December 30, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 53045) the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation and tentative determination to terminate the suspension agreement on unprocessed float glass from Mexico (49 FR 7267; February 28, 1984). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

The United States, under the auspices of the Customs Cooperation Council, has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of Mexican unprocessed float glass, a type of flat glass produced by floating molten glass over a bed of molten tin. During the review period, such merchandise was classifiable under items 543.2100 through 543.6900 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under FTS item numbers 7005.29.05, 7005.29.15, 7005.29.25 and 7005.10.00. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1986 through December 31, 1986 and the following programs: (1) FOMEX; (2) CEPROFI; (3) FICORCA; (4) lease of government land; (5) CEDIs for foreign trade consortia; (6) NDP preferential discounts; (7) import duty reductions and exemptions; (8) delay of payments to PEMEX of fuel changes; (9) preferential state investment incentives; (10) state tax incentives; and (11) debt/equity swaps.

The review covers two exporters, Vidrio Planto de Mexico, S.A. (Vidrio Plano) and Vitro Flotado, S.A., the signatories to the suspension agreement, which accounted for more than 90 percent of exports of the subject merchandise to the United States during the period of review.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. At the request of the petitioner, PPG Industries, Inc. ("PPG"), we held a public hearing on March 21, 1989. We received written comments from PPG and the respondents, Virdrio Plano and Vitro Flotado.

Comment 1: PPG argues that the Department's determination that FICORCA does not provide countervailable benefits is incorrect because the Department has not properly examined whether the program provided benefits to specific enterprises or industries. In its Final Affirmative Countervailling Duty Determination and Countervailing Duty Order; Carbon Steel Wire Rod from Malaysia (53 FR 13303; April 22, 1988), the Department stated that it will examine (1) the extent to which a foreign government acts to limit the availability of a program; (2) the number of companies using the program and whether particular companies or industries have received disproportionate benefits; and (3) the extent to which the foreign government exercise discretion in the bestowal of benefits. The Department has not obtained the relevant information

regarding the application and approval process, as well as the information regarding the application and approval process, as well as the information on the actual distribution of FICORCA benefits. This omission is particularly significant given information submitted showing that FICORCA benefits were provided to a relatively small number of companies in Mexico and that, of these, nine companies or corporate groups accounted for more than 50 percent of all refinancing extended by FICORCA. Therefore, the Department has *prima facie* evidence that FICORCA was bestowed in a disproportionate manner and, therefore, provides countervailable benefits.

Respondents reply that, during this administrative review, the Department did not re-examine its prior determination that the basic FICORCA program is not countervailable. The Department's determination that FICORCA was not countervailable was upheld by the Court of International Trade (CIT) *in PPG Industries, Inc.* v. *United States*, 682 F. Supp 258 (1987), appeal pending, CAFC No. 88–1175 ("PPH I").

Department's Position: We did not re-evaluate our determinations regarding the FICORCA program during this administrative review. In Unprocessed Float Glass from Mexico; Final Affirmative Countervailing Duty Determination (49 FR 23097; June 4, 1984), we determined that the FICORCA program was available to all Mexican firms with foreign indebtedness and that it was not targeted to a specific enterprise or industry, group of enterprises or industries, or to companies located in specific regions. We also found that FICORCA was not tied in any way to exports. In Unprocessed Float Glass from Mexico; Preliminary Results of Countervailing Duty Administrative Review (51 FR 37319; October 21, 1986), we specifically addressed information provided by PPG regarding the small portion of corporations and businesses in Mexico that participated in FICORCA and determined that the Mexican government did not restrict refinancing under FICORCA to specific industries or locations and that FICORCA was used by a wide variety of industries in various locations. We upheld our position that FICORCA program is not countervailable in Unprocessed Float Glass from Mexico; Final Results of Countervailing Duty Administrative Review (51 FR 44503; December 10, 1986). Moreover, the Department's position on FICORCA has been upheld by the CIT in PPG I *and PPG Industries, Inc.* v. *the United States* 712 F. Supp. 195 (1989) ("*PPG II*").

Comment 2: PPG contends that the Department should examine "new" and/or recent countervailable changes in the FICORCA regulations not previously addressed: (1) Enrollment of non-bank debt in FICORCA; (2) provisional enrollment of unrescheduled debt; and (3) capitalization of unpaid interest.

Although FICORCA covered only debt owed to foreign financial institutions, the Mexican government allowed certain companies to enroll non-bank debt, such as commercial paper, in FICORCA. While the Department's verification report states that FICORCA regulations make clear that FICORCA has never been limited to bank debt only, these regulations were not included as a verification exhibit and have never been included in the administrative record. Therefore, the Department should assume that non-bank debt was not enrollable in FICORCA without special permission, and that coverage of such debt represents the discretionary extension of countervailable benefits.

Under the terms of FICORCA, only long-term debt or debt that had been rescheduled to become long-term by the November 5, 1983 deadline could be enrolled in FICORCA. It appears that the Department accepted a verbal explanation by the Mexican government regarding provisional enrollment of debt in FICORCA and did not obtain any further information regarding the approval process by which FICORCA contracts were concluded to cover debt that was still being rescheduled at the time of the deadline. The Department should conclude that the inclusion of such contracts represents the discretionary extension of benefits, and that if FICORCA as a whole is not countervailable, the benefits accruing to debt provisionally enrolled is countervailable.

Finally, under FICORCA, participants may opt for a minimum payment schedule. Interest payments in the first years do not cover the interest due and the difference is capitalized and treated as an additional loan by FICORCA. Since the inception of the FICORCA program in late 1983, the Mexican economy has experienced severe inflation, with inflation of approximately 65 percent in 1984, 53 percent in 1985, 88 percent in 1986, 135 percent in 1987, and 114 percent in 1988. The interest rate charged on FICORCA loans was approximately 58 percent. This interest rate was at, or below, the inflation rate for every year since FICORCA came into existence. To the extent that the inflation rate exceeds the interest rate, it is clearly in the interest of FICORCA borrowers to capitalize interest at the same below-inflation interest rate, so that they ultimately pay off their debt in inflated pesos. FICORCA loans were provided to a specific group of enterprises, and the effect of capitalization of these loans represents further extension of credit at preferential rates. Capitalization of interest rates under FICORCA could in and of itself provide a subsidy if such capitalization features are not normal commercial loan terms in Mexico. There is nothing in the Department's verification report to indicate that this aspect of commercial loan terms were considered.

Respondents reply that the Department's verification report makes clear that none of PPG's allegations involve "new" aspects of FICORCA, but instead were parts of the original FICORCA regulations. The FICORCA regulations were obtained by the Department and were part of the administrative record before the CIT when it upheld the Department's final determination in *PPG I*. Since PPG's "new" allegations involve aspects that were provided for in the original FICORCA program, the Department's prior determinations that FICORCA was not countervailable necessarily include determinations that the specific allegations raised during the instant review are also not countervailable.

Respondents point out that, in the original FICORCA regulations, the relevant criterion for enrollment in FICORCA was that debt had to be denominated in a foreign currency and payable abroad, clearly broad enough to encompass non-bank debt. Regardless, PPG's allegations are irrelevant because neither of the signatories to the suspension agreement enrolled non-bank debt in FICORCA. Second, as stated in the Department's verification report and discussed in the preliminary results of this review, there was no provisional enrollment of debt in the sense intended by PPG and no selective determination by FICORCA regarding provisional enrollment. Finally, the capitalization of interest was an inherent part of the FICORCA program from its inception. The FICORCA regulations make it clear that FICORCA does not assume any liability on behalf of the debtor. Capitalization of interest on debt enrolled in FICORCA simply alters the timing sequence of the debtor's payment of its obligation.

Department's Position: PPG requested that the Department evaluate aspects of the FICORCA program that allegedly

presented "new" information and/or changes to existing FICORCA regulations. We verified that the alleged new features or changes to FICORCA programs were provided for in the original FICORCA regulations. Contarry to PPG's assertion, the FICORCA regulations have been on the record since the original investigation in this case, and are also a part of the record in this review.

It is clear from the regulations that FICORCA was not intended solely for bank debt because Mexican firms having indebtedness denominated in a foreign currenty and payable abroad to foreign financial entities, or suppliers, could participate in the FICORCA program. Thus, no special approval was required for non-bank debt. With respect to the provisional enrollment of unrescheduled debt, we discussed this fully in the preliminary results of this review; PPG simply insists on characterizing provisional enrollment in a way not meant by the regulations and not as such enrollment actually occurred.

Finally, the Department need not consider whether commercial loans permit capitalization of interest because firms that capitalize unpaid interest under FICORCA are not relieved of their obligations or provided with any pecuniary benefit. The interest rate on FICORCA contracts is the average of the 3-month and 6-month certificate of deposit rates in effect on the first day of each month. Interest is accrued on the entire outstanding balance and any unpaid interest is added to the principal. The capitalization feature was part of the original FICORCA regulations and was intended to provide a uniform debt service ratio throughout the life of the loan. However, because high inflation rates in Mexico had a substantial impact on interest rates, continued participation in FICORCA could result in a significant increase in a company's long-term peso liability caused by the capitalization of interest under the terms of the FICORCA agreement. Consequently, the outstanding peso liability under a FICORCA contract would increase and a balloon payment would have to be made at a later stage in the life of the loan. The FICORCA scheme for debt repayment could actually cost a company more than the original foreign debt.

Comment 3: PPG argues that floating rate notes covered by FICORCA are exempt from the 15 percent withholding tax on interest paid to foreign banks. The exemption from the tax has the effect of increasing the rate of return realized by the creditor, as it would receive 100 percent of the interest payments, rather than 85 percent. As a result, creditors can achieve the same rate of return by charging FICORCA participants lower interest rates than they would have had to pay absent the exemption. Information previously submitted shows that foreign lenders who encouraged adoption of this scheme stated that the withholding tax exemption allowed faster repayment of principal. In addition, the issuance of securities to be offered abroad by Mexican companies requires government approval. Because the Mexican government controls the issuance of floating rate notes, it also controls access to the foreign interest withholding exemption. Therefore, the exemption from the withholding tax on floating rate notes would provide an additional countervailable benefit.

Respondents reply that the exemption from payment of income tax on interest payable abroad on floating rate notes should not have been included in this administrative review since PPG failed to offer any factual basis in support of its allegation that this constituted a countervailable subsidy. Furthermore, the exemption from payment of income tax for floating rate notes is part of Mexico's general tax law and is not related to, or conditioned in any way by, FICORCA. PPG's supposition that foreign banks would offer reduced interest rates fails to consider that under the tax laws of many countries, taxes paid abroad would be fully creditable toward home country tax liabilities. Accordingly, the interest rate charged by the lenders depends on commercial considerations and not on direction or control from the Mexican government. Mexican debtors are required to pay 100 percent of the interest under both floating rate notes and fixed rate notes. Since the foreign creditor bank receives 100 percent of the interest payments required from the debtor, either 100 percent directly from the debtor of 85 percent in cash, and 15 percent in the form of a tax credit, the Mexican debtor is not receiving any benefit from floating rate notes.

Department's Position: We verified that the signatories to the suspension agreement did not convert FICORCA liabilities to floating rate notes. Moreover, in making its allegation, PPG assumes without providing evidence (1) that the interest on floating rate notes is not taxed either in Mexico or the bank's home jurisdiction and (2) that the withholding tax exemption on floating rate notes is special to FICORCA contracts and not part of Mexico's general tax law.

Comment 4: PPG argues that FICORCA debt refinancing was available only to a limited number of companies. The fact that FICORCA contracts could be sold only to other Mexican firms with foreign debt registered with the Mexican government is further evidence of the restricted availability of FICORCA benefits. Therefore, any benefit gained from the sale, trade, or other disposition of a FICORCA contract would be countervailable.

Respondents reply that the Mexican government is not involved with the approval of the sale or transfer of FICORCA contracts. Parties participating in a transfer or sale of a FICORCA contract are merely required to notify FICORCA of any changes in the parties to the contracts for record keeping purposes. Since the Department verified that neither Vidrio Plano nor Vitro Flotado sold or transferred any of their FICORCA liabilities, this issue is irrelevant. It is also evident that the sale or transfer of a FICORCA contract does not constitute a countervailable bounty or grant, because the contract itself is not countervailable.

Department's Position: We verified that the signatories to the suspension agreement did not sell or transfer any FICORCA contracts. However, we verified that another Mexican firm sold a FICORCA contract because it was prohibitively expensive to service the increasing peso liability. The FICORCA contract that was sold carried an interest rate that was the average of the 3-month and 6-month certificate of deposit rates in effect on the first day of each month, not a fixed below-market rate as assumed by PPG.

Comment 5: PPG contends that, in 1987, the Mexican government entered onto a new agreement with foreign banks whereby the Mexican government guaranteed repayment of debt enrolled in FICORCA. In its preliminary results in this review, the Department did not address the additional benefit the guarantee of FICORCA debts provides. The provision of such a guarantee is clearly inconsistent with commercial considerations.

Respondents reply that since PPG admits that the "guarantee" of FICORCA contracts is part of a revised program which was only available as of the fall of 1987, it should not be addressed by the Department in the context of this review. Any possible benefit from such a guarantee, if utilized, could only have been obtained or utilized after the period of this administrative review. Furthermore, the record establishes that neither of the

signatories to the suspension agreement entered into any modification or alternation of their FICORCA contracts.

Department's Position: The so-called "guarantee" referred to by PPG and the respondents is not a guarantee by the Mexican government to pay off the Mexican firms' foreign debt. As part of a general rescheduling of Mexico's external debt, a new agreement was signed on August 14, 1987 by FICORCA and foreign and domestic creditor banks. According to the new agreement, firms enrolled in FICORCA continue to pay their FICORCA liabilities according to the terms and conditions agreed upon in the original (1983) contract. FICORCA, in turn, complies with the payment terms of the 1983 contract. When FICORCA makes a payment, the creditor bank frees FICORCA and the enterprise from the obligations of the original loan. At the same time, the creditor bank issues a new loan to FICORCA, in the amount of the payment made by FICORCA, on a 20-year term with a 7-year grace period. In short, the Mexican firm pays the debt as scheduled and, on this basis, FICORCA is able to obtain a new loan. During the period of review, this program was non-operational

Comment 6: PPG argues that the lease of an easement to Vidrio Plano by the Mexican government at an artificially low price is a specific bestowal of a benefit. The Department's verification report does not indicate what sources were examined to determine whether a commercial benchmark could be derived. The Department should request the Mexican government to provide more information regarding normal terms for commercial and government leases of easements in the Federal District.

Respondents reply that, at the insistence of PPG, the Department conducted a thorough investigation of the small parcel of land that Vidrio Plano leases from the Government of Mexico to gain access to an otherwise land-locked well. If the Department were to determine that the lease of the easement conferred a benefit, it would be so small in relation to the value of production or exports that it could barely be measured.

Department's Position: In March 1965, Vidrio Plano leased a small strip of land through payment of an easement to the government of the Federal District. The fee set in the 1965 contract was still in effect during 1986 and seems artificially low in U.S. dollar terms only because of successive peso devaluations. As discussed in the preliminary results of this review, there is no commercial benchmark to use as a point of comparison to determine preferentiality and no flat rate charged by the government for easements. After a thorough verification of the terms of the lease and taking into account the location and the small amount of land involved, we found no reason to believe that a benefit was being provided and chose not to pursue the matter further.

Comment 7: PPG argues that the Mexican government's policy of selling natural gas to domestic industries at controlled prices confers a countervailable benefit upon the production or manufacture of unprocessed float glass. The CIT in *Cabot Corp.* v. *United States*, 694 F. Supp. 949 (1988), held that the Department's determination regarding the countervailability of the Mexican natural gas program was based upon an impremissible application of the specificity test. Because the Department's determination on natural gas was based upon the improper use of the specificity test, the Department should reconsider this determination regarding the float glass producers.

Respondents reply that the Department's determination that natural gas pricing practices were not countervailable was upheld by the CIT in *PPG I*. Since the Department previously determined that PPG's allegations were without merit, the Department's administrative review properly did not involve a re-examination of this program.

Department's Position: PPG has not provided any new evidence that natural gas provided at government-controlled prices to all industrial users confers a countervailable benefit. We have repeatedly held that the provision of natural gas on these terms does not confer countervailable benefits. *See, e.g.*, Final Negative Countervailing Duty Determination' Anhydrous and Aqua Ammonia from Mexico (48 FR 28522; June 22, 1983), and Unprocessed Float Glass from Mexico; Final Results of Countervailing Duty Administrative Review (51 FR 44503; December 10, 1986). Moreover, the Department's position was upheld in *PPG I, PPG II, Can-Am* v. *United States* 664 F. Supp. 1444 (1987) and *Cabot Corp.* v. *United States* (Judgment for the Department) Court No. 86–09–01109 (June 7, 1989).

Comment 8: PPG contends that the Department failed to address the current status of the CEDI program and failed to determine whether the exporters of unprocessed float glass benefitted, either directly or indirectly, from the receipt of CEDIs. PPG states: (1) The Department has not been able to determine if export consortia or other members of the Vitro group continue to receive CEDIs; (2) the Department has not made the distinction between the benefit derived from the direct receipt of CEDIs by Vidrio Plano and Vitro Flotado and the indirect benefit resulting from CEDIs received by other members of the Vitro group based on exports of this merchandise to the United States; (3) during verification, the Department was refused access to computer printouts which would indicate if any members of the Vitro group, other than Vidrio Plano and Vitro Flotado, received CEDIs; (4) during verification, the Department established that the majority of CEDIs issued during the review period were "global" CEDIs which are paid to export consortia and are not tied to any speciic industry; and (5) during verification, the Department was denied access to documents which would indicate whether export consortia related to the export of unprocessed float glass received "global" CEDIs. Having been denied important information during verification regarding this program, the Department should, based on the best information available, impose a countervailing duty on imports of unprocessed float glass from Mexico of 4 percent *ad valorem*, the CEDI rate paid to export consortia.

Respondents reply that PPG has finally acknowledged that neither Vidrio Plano nor Vitro Flotado directly received CEDIs. PPG's argument that the Department's verification was insufficient because of a failure to verify that no company in Mexico received CEDIs based upon exports of unprocessed float glass to the United States is without merit.

Department's Position: The signatories to the suspension agreement accounted for more than 90 percent of the float glass exports to the United States during the period of review. We verified that the signatories did not receive CEDIs directly on the exports of float glass to the United States. We also verified that no float glass was exported to the United States through export consortia during the period of review. With respect to PPG's concern of possible indirect benefits, CEDIs are earned on a shipment-specific basis and are not transferable; any benefits received from them can only be used by the exporting company.

Comment 9: PPG argues that the administrative record of this review contains no information on duty drawback regarding (1) whether the program was intended to operate as a rebate of import duties; (2) whether the Mexican government properly ascertained the level of import duties to be rebated; (3) whether the rebate

schedules are revised periodically to ensure that the rebate amount reflects the amount of import duties actually paid; and (4) whether the drawbacks received are limited to physically incorporated goods. Therefore, the ITA should submit a supplemental questionnaire to the Mexican government requesting detailed information regarding the operation of the Mexican duty drawback program.

Respondents reply that the duty drawback received by Vidrio Plano in 1986 was actually issued by the Mexican government during 1985, which is outside this period of review. Even if a benefit from this duty drawback was attributed to the 1986 review period, the amount involved is so inconsequential (less than $200) than any benefit would be *de minimis*.

Department's Position: The standards outlined by PPG for determining whether there is a countervailable benefit are for indirect tax rebate programs; they would only be applicable to duty drawback if the duty drawback was rebated in combination with an indirect tax rebate program. This is not the case in Mexico. Duty drawback, by definition, is the rebate on duties paid on imported goods that are physically incorporated in an exported product; it is a practice acceptable under U.S. countervailing duty law and the GATT, and does not give rise to a subsidy unless the drawback is in excess of the duties levied on physically-incorporated goods. The Department had no basis to believe or suspect that the duty drawback was excessive or that the program was improperly administered.

Comment 10: PPG argues that the Department should not terminate the suspension agreement because the signatories have received subsidies in the form of FICORCA benefits and benefits from the Mexican natural gas program. The agreement should also not be terminated because the issue of the countervailability of FICORCA and the question of whether there is substantial evidence supporting the Department's determination that float glass had not benefitted from CEDIs or countervailable duty drawback are before the CIT. Also, other aspects of the Department's final determination including the countervailability of FICORCA and the Mexican natural gas program are currently being considered by the Court of Appeals for Federal Circuit in *PPG Industries, Inc.* v *United States*, CAFC No. 88–1175.

Respondents reply that PPG no longer makes any pretense of challenging the correctness of the Department's determination that both signatories to the suspension agreement have complied with the terms of the agreement. Rather, PPG is simply attempting to compel the Department to review programs that both the Department and the courts have determined are not countervailable. Since it is clear that the signatories have complied with all the terms of the suspension agreement, the Department should proceed to terminate the suspension agreement.

Department's Position: The signatories to the suspension agreement have complied with the terms of the suspension agreement for more than two years. Because the tentative determination to terminate the suspension agreement was issued prior to the effective date of the new countervailing duty regulations, the determination as to whether to terminate this suspension agreement is governed by 19 CFR 355.12(e) (1988). Under the terms of that provision, any termination of the suspension agreement would not become effective until completion of the administrative review covering the periods January 1, 1987 through December 30, 1988.

Final Results of Review

After consideration of all the comments received, we determine that the signatories, Vitro Flotado S.A., and Vidrio Plano de Mexico, S.A., have complied with the terms of the suspension agreement for the period January 1, 1986 through December 31, 1986.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: February 12, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90–3799 Filed 2–16–90; 8:45 am]

BILLING CODE 3510–DS–M

Short-Supply Determination

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of Short-Supply Determination on Certain Aluminum-Killed Cold-Rolled Steel Sheet.

Short-Supply Review Number: 3.

SUMMARY: Pursuant to Section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Pub. L. No. 101–221, 103 Stat. 1886 (1989) ("the Act"), and § 357.102 of the Department of Commerce's Short-Supply Regulations, published in the **Federal Register** on January 12, 1990, 55 FR 1348 ("Commerce's Short-Supply Regulations"), the Secretary of Commerce ("Secretary") hereby determines that 3,000 metric tons of certain aluminum-killed ("AK") cold-rolled steel sheet for use in the manufacture of aperture or shadow masks and data display tubes is in short supply during 1990.

On January 25, 1990, the Secretary received an adequate short-supply petition from Buckbee Mears Cortland Inc. ("BMC") requesting a short-supply allowance for 3,000 metric tons of this product under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community, and the Government of the United States of America Concerning Trade in Certain Steel Products. The Secretary, on the basis of available information, finds that this product is not produced in the United States at this time. Therefore, the Secretary has applied a rebuttable presumption that this product is presently in short supply in accordance with section 4(b)(4)(B)(III) of the Act and § 357.106(b)(1)(iii) of Commerce's Short-Supply Regulations. Domestic steel producers were provided a seven-day comment period to respond to the Department's notice of review in the **Federal Register** and to rebut the presumption of short supply. However, no comments were received. Thus, in accordance with § 357.102(a) of Commerce's Short-Supply Regulations, the secretary hereby grants BMC a short-supply allowance for 3,000 metric tons of this product.

EFFECTIVE DATE: February 9, 1990.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230 (202) 377–0159.

SUPPLEMENTARY INFORMATION: On January 25, 1990, the Secretary received a short-supply petition from BMC for 3,000 metric tons of certain AK cold-rolled steel sheet under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community, and the Government of the United States of America Concerning Trade in Certain Steel Products, and for 4,000 metric tons of this product from Japan. This material is used in the manufacture of aperture or shadow masks, a fundamental component of color television picture tubes, and data display tubes and meets the following specifications:

Chemistry (in maximum values): Carbon (0.004 percent); Silicon (0.040 percent); Sulphur (0.030 percent); Aluminum

(0.070 percent); Nitrogen (0.008 percent); Manganese (0.450 percent); Copper (0.080 percent); and Phosphorus (0.035 percent);
Width range (and tolerance): 15 in. to 30 in. (± 0.04 in.);
Thickness range (and tolerance): 0.001 in. to 0.0102 in. (± 0.0003 in.);
Coil weight: 1.5 to 3.0 metric tons.

Due to the statutory and regulatory requirements for the authorization of a short-supply allowance, the Secretary could only consider BMC's request as it relates to the U.S.-EC steel agreement. Pursuant to section 4(b)(1)(A) of the Act, and § 357.102(a)(1) of Commerce's Short-Supply Regulations, the Secretary cannot authorize a short-supply allowance unless there is a short-supply provision in a bilateral arrangement with the particular country from which the petitioner wishes to obtain its supply. Insofar as no bilateral steel agreement exists between the United States of America and Japan, the Secretary, as a matter of law, was precluded from considering BMC's request for the subject product from Japan at this time. However, if the agreement between the U.S. and Japan is signed in the near future, the Secretary will utilize the information obtained in this review in order to consider the request for the additional 4,000 metric tons.

Action

On January 25, 1990, the Secretary established an official record on this short-supply request (Case Number 3) in the Central Records Unit, Room B–099, Import Administration, U.S. Department of Commerce at the above address. Section 4(b)(4)(B)(i) of the Act and § 357.106(b)(1) of Commerce's Short-Supply Regulations require the Secretary to apply a rebuttable presumption that a product is in short supply and to make a determination with respect to a short-supply petition not later than the 15th day after the petition is filed if the Secretary finds that one of the following conditions exists: (1) the raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) the requested steel product is not produced in the United States. The Secretary finds, on the basis of available information, that the requested steel product is not produced in the United States at this time. Therefore, unless domestic steel producers provided proof that they could and would produce the requested quantity of this product within the desired period of time, provided it represented a normal order-to-delivery period, the Secretary would issue a short-supply allowance not later than February 9, 1990. On January 30, 1990, the Secretary published a notice in the **Federal Register** announcing its review of this request and providing domestic steel producers an opportunity to rebut the presumption of short supply. All comments were required to be received no later than February 6, 1990. No comments were received.

Conclusion

Since the Secretary received no comments to the **Federal Register** notice by potential suppliers to rebute the Secretary's presumption of short-supply for the requested product, the Secretary hereby grants BMC, pursuant to Section 4(b)(4)(A) of the Act and § 357.102 of Commerce's Short-Supply Regulations, a short-supply allowance for 3,000 metric tons of the requested steel sheet for 1990 under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community, and the Government of the United States of America Concerning Trade in Certain Steel Products.

Dated: February 9, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90–3802 Filed 2–16–90; 8:45 am]
BILLING CODE 3510–DS–M

Short-Supply Determination

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of Short-Supply Review and Request for Comments on Certain Swedish T–2 Feeler Gauge Steel.

Short-Supply Review Number: 5.

SUMMARY: Pursuant to section 4(b)(3)(B) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101–221, 103 Stat. 1886 (1989) ("the Act"), and § 357.104(b) of the Department of Commerce's Short-Supply Regulations, published in the **Federal Register** on January 12, 1990, 55 FR 1348 ("Commerce's Short-Supply Regulations"), the Secretary of Commerce ("Secretary") hereby announces that a short-supply determination is under review with respect to certain Swedish T–2 feeler gauge steel for use in the manufacture of feeler gauges. On February 6, 1990, the Secretary received an adequate petition from Vogelsang Corporation requesting a short-supply allowance for this product. In acordance with section 4(b)(4)(B)(ii) of the Act, and § 357.106(b)(2) of Commerce's Short-Supply Regulations, the Secretary will determine whether this product is in short supply not later than March 8, 1990. Comments on this review are welcome, and, if received in a timely manner, will be considered in making this determination.

Comments: Interested parties wishing to comment upon this review must send written comments not later than February 27, 1990. To the Secretary of Commerce, Attention: Import Administration, room 7866, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230. Interested parties may file replies to any comments submitted. All replies must be filed not later than 5 days after February 27, 1990. All documents submitted to the Secretary shall be accompanied by four copies. Insterested parties shall certify that the factual information contained in any submission they make is accurate and complete to the best of their knowledge.

Any person who submits information in connection with a short-supply review may may designate that information, or any part thereof, as proprietary, thereby requesting that the Secretary treat that information as proprietary. Information that the Secretary designates as proprietary will not be disclosed to any person (other than officers or employees of the United States Government who are directly concerned with the short-supply determination) without the consent of the submitter unless disclosure is ordered by a court of competent jurisdiction. Each submission of proprietary information shall be accompanied by a full public summary or approximated presentation of all proprietary information which will be placed in the public record. All comments concerning this review must reference the above noted short-supply review number.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230, (202) 377–0159.

SUPPLEMENTARY INFORMATION: Pursuant to section 4(b)(3)(B) of the Act and § 357.104(b) of Commerce's Short-Supply Regulations, the Secretary hereby announces that a short-supply determination is under review with respect to certain Swedish T–2 feeler gauge steel. On February 6, 1990, the Secretary received an adequate short-supply petition from Vogelsang

Corporation under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Econimic Community, and the Government of the United States of America Concerning Trade in Certain Steel Products, for 190 metric tons of Swedish T–2 feeler gauge steel to be delivered during 1990. This feeler gauge steel must meet the following additional specifications:

Chemical Composition: (percent nominal) Carbon: 1.00, Silicon: 0.30, Manganese: 0.40, Phosphorus Max: 0.20, Sulfur Max: 0.015, Chromium: 0.15;

Width: 0.250 and 0.500 inch;

Thickness: 0.001–0.040 inch;

Thickness Tolerances:

Thickness (in inch)	*Tolerance ± (in inch)*
0.001–0.0015	0.00012
0.002	0.00016
0.0025–0.004	0.00020
0.005–0.009	0.00025
0.010–0.012	0.00035
0.013–0.055	0.00043
0.016–0.019	0.00047
0.020–0.024	0.00055
0.025–0.031	0.00067
0.032–0.039	0.00075
0.040–0.049	0.00094
0.050–0.062	0.00110

Hardness: 48–52 on the Rockwell "C" scale;

Elongation: A10 7–10 percent;

Flatness: 0.2 percent per inch of width;

Other Specifications: bright polished, hardened and tempered, #1 or #3 edge, in coil.

Section 49(b)(4)(B)(ii) of the Act and § 357.106(b)(2) of Commerce's Short-Supply Regulations require the Secretary to make a determination with respect to a short-supply petition not later than the 30th day after the petition is filed, unless the Secretary finds that one of the following conditions exist: (1) The raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) the requested steel product is not produced in the United States. The Secretary finds that none of these conditions exist with respect to the requested product, and therefore, the Secretary will determine whether this product is in short supply not later than March 8, 1990.

Dated: February 9, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90–3803 Filed 2–16–90; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Hearing

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of a rescheduled public hearing and request for comments.

SUMMARY: The Caribbean Fishery Management Council announced a series of public hearings on the management measures being considered for development of the Queen Conch Fishery Management Plan, which were published August 28, 1989 (54 FR 35524). These hearings were cancelled because of Hurricane Hugo. This notice announces a rescheduled hearing. Oral and/or written presentations will be accepted.

DATES: Written comments will be accepted until Friday, March 16, 1990. (The public hearing is scheduled for Thursday, March 1, 1990, at 7:30 p.m.

ADDRESSES: Written comments should be sent to the Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918.

The hearing will be held at the following location: Conference Room, Legislature Building, St. Croix, U.S. Virgin Islands.

FOR FURTHER INFORMATION CONTACT: Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, 809–766–5926.

Dated: February 13, 1990.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90–3765 Filed 2–16–90; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Quota and Visa Requirements for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in India

February 14, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending and establishing limits; and amending quota and visa requirements.

EFFECTIVE DATE: February 22, 1990.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin board of each Customs port or call (202) 343–6494. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

During recent consultations, the Governments of the United States and India agreed, among other things, to amend the current quota and visa requirements for certain textile and apparel products. As a result, hand-made handloom made-up articles from India shall no longer be exempt from visa and quota requirements. Shipments exported from India on and after January 1, 1990 which are not accompanied by an export visa shall be denied entry.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 44 FR 68504, published on November 29, 1979; and 54 FR 53351, published on December 28, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 14, 1990

Commissioner of Customs
Department of the Treasury
Washington, DC 20229.

Dear Commissioner:

This directive amends, but does not cancel, the directive of December 21, 1989 from the Chairman, Committee for the Implementation of Textile Agreements (CITA). That directive establishes restraint limits for certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period

which began on January 1, 1990 and extends through December 31, 1990.

Also, this directive amends, but does not cancel, the directive of November 26, 1979, as amended, from the Chairman of CITA, concerning export visa requirements for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India.

Effective on February 22, 1990, you are directed to amend the December 21, 1989 directive to remove Categories 369–D [1], 369–S [2] and 369–0 [3] from Group II, and to remove the charges made to Group II for Categories 369–D, 369–S and 369–0. Also, you are directed to establish a limit for Category 369, with Categories 369–D and 369–S as sublimits. Charges already made to Categories 369–D and 369–S shall be retained. The charges for Category 369–0 shall be charged to the newly established limit for Category 369.

Category	New twelve-month limit [1]
369	7,993,647 kilograms of which not more than 776,345 kilograms shall be in Category 369–D and not more than 426,787 kilograms shall be in Category 369–S.
Group II 200, 201, 220–229, 237, 239, 300/301, 317, 326, 330–334, 345, 349–352, 359–362, 600–607, 611–635, 638–652, 659, 665–0,[2] 666–670 and 831–859, as a group.	100,504,898 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.

[2] Category 665–0.: all HTS numbers except rugs exempt from the bilateral agreement in HTS numbers 5702.10.9030, 5702.42.2010, 5702.92.0010 and 5703.20.1000.

Effective on February 22, 1990, hand-made handloom made-up articles, produced or manufactured in India and exported from India on and after January 1, 1989, shall no longer be exempt from quota or visa requirements. You are directed, effective on February 22, 1990, to require a visa for shipments of hand-made handloom made-up articles, produced or manufactured in India and exported from India on and affer January 1, 1990.

Merchandise which is certified as hand-made handloom made-up articles and which is exported from India prior to February 22, 1990 shall not be denied entry for lack of an export visa, but shall be subject to existing agreement limits. If a certified hand-made handloom article is being held in warehouse for lack of a visa, and if there is no indication of fraudulent statements regarding the invoice, the merchandise may now be entered into the United States and charged to the appropriate quota level. Merchandise believed to be involved with a false invoice is still subject to standard Customs procedures.

Also effective on February 22, 1990, for goods produced or manufactured in India and exported from India on and after January 1, 1990, shipments of merchandise in Category 369 (all HTS numbers except 6302.60.0010, 6302.91.0005 and 6302.91.0045 in Category 369–D and 6307.10.2005 in Category 369–S) must be visaed as 369. Shipments of merchandise in Categories 369–D and 369–S must be visaed as 369–D and 369–S, respectively. Shipments not accompanied by a visa with a correct category or part-category designation shall be denied entry.

Properly certified handloomed fabrics and "India Items" shall continue to be exempt from quota if accompanied by a properly certified exempt certificate. Handknotted, hand-pile inserted and handloomed floor coverings as covered in HTS numbers 5702.10.9020, 5702.49.1010 and 5702.99.1010 in Category 369; 5701.10.1600, 5701.10.2010, 5701.10.2090, 5702.10.9010, 5702.51.2000 and 5702.91.3000 in Category 465; and 5702.92.0010 and 5703.20.1000 in Category 665 shall continue to be exempt from quota and visa requirements and shall not require exempt certification for entry.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90–3796 Filed 2–16–90; 8:45 am]

BILLING CODE 3510–DR–M

[1] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[2] Category 369–S: only 6307.10.2005.

[3] Category 369–0: all HTS numbers except 6307.10.2005 (Category 369–S); 6302.60.0010, 6302.91.0005 and 6302.91.0045 (Category 369–D; and rugs exempt from the bilateral agreement in HTS numbers 5702.10.9020, 5702.49.1010 and 5702.99.1010.

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Ecclesiastical Endorsement (Nomination of Chaplains for the Three Military Departments—Army, Air Force, Navy), DD Form 2088 (Ecclesiastical Endorsing Agent Certification), 0704–0190.

Type of Request: Extension.

Average Burden Hours/Minutes Per Response: 1 hour.

Frequency of Response: 1.

Number of Respondents: 700.

Annual Burden Hours: 700.

Annual Responses: 1.

Needs and Uses: Certifies that clergy applying for the chaplaincy in the Armed Forces are qualified members of a faith group recognized by DoD. It is an essential element of a chaplain's professional qualifications under Title 10 U.S.C. 643 and provides documentation of years of professional experience for the computation of constructive credit used in determining grade, date of rank, and eligibility for promotion of appointees.

Affected Public: Non-profit institutions (religious).

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Dr. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. Timothy Sprehe at Office of Management of Budget, Desk Officer, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: February 14, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liasion Officer, Department of Defense.

[FR Doc. 90–3808 Filed 2–16–90; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary

DOD Advisory Group on Electron Devices; Notice of Advisory Committee Meeting

SUMMARY: Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 9 a.m., Wednesday, 14 March 1990.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Harold Sumner, AGED Secretariat, 201 Varick Street, New York, 10014.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisiton, the Director, Defense Advanced Research Projects Agency

and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review and research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. II section 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

Dated: February 14, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–3809 Filed 2–16–90; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretarirat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection concerning Incentive Contracts.

ADDRESSES: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, OMB, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mrs. Victoria Moss, Office of Federal Acquisition Policy, (202) 523–5168 or Mr. Owen Green, Defense Acquisition Regulatory Council, (703) 697–7268.

SUPPLEMENTARY INFORMATION:

a. Purpose

Incentive contracts are normally used when a firm fixed-price contract is not appropriate and the required supplies or services can be acquired at lower costs, and sometimes with improved delivery or technical performance, by relating the amount of profit of fee payable under the contract to the contractor's performance.

The information required periodically from the contractor—such as cost of work already performed, estimated costs of further performance necessary to complete all work, total contract price for supplies or services accepted by the Government and for which final prices have not been established—is needed to negotiate the final prices of incentive-related items and services. The contracting officer evaluates the information received to determine the contractor's performance in meeting the incentive target and the appropriate price revision, if any, for the items or services.

b. Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents, 3,000; responses per respondent, 1; total annual responses, 3,000; hours per response, 1; and total response burden hours, 3,000.

Obtaining Copies of Proposals

Requester may obtain copies from General Services Administration, FAR Secretariat (VRS), Room 4041, Washington, DC 20405, telephone (202) 523–4755. Please cite OMB Control No. 9000–0067, Incentive Contracts.

Dated: February 12, 1990.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 90–3827 Filed 2–16–90; 8:45 am]

BILLING CODE 6820–JC–M

DEPARTMENT OF DEFENSE

Meeting of the National Advisory Panel on the Education of Handicapped Dependents

AGENCY: Department of Defense Dependents Schools (DoDDS), Office of the Assistant Secretary of Defense (Force Management & Personnel).

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Panel on the Education of Handicapped Dependents. This notice also describes the functions of the Panel. Notice of this meeting is required under the National Advisory Act. This meeting is open to the public; however, due to space constraints, anyone wishing to attend should contact the Office of Dependents Schools (ODS) special education coordinator.

DATES: April 23–27, 1990.

ADDRESSES: Mediterranean Regional Office, Torrejon, Spain.

FOR FURTHER INFORMATION CONTACT: Mrs. Trudy Paul, Special Education Coordinator, DoDDS, 2461 Eisenhower Avenue, Alexandria, Virginia 22331–1100 (202/325–7810).

SUPPLEMENTARY INFORMATION: The National Advisory Panel on the Education of Handicapped Dependents is established under section 613 of the Education for All Handicapped Children Act of 1975 (20 U.S.C. 1401, Pub. L. 94–142). The Panel is directed to: (1) Review information regarding improvements in services provided to handicapped students in DoDDS; (2) received and consider the views of various parents, students, handicapped individuals, and professional groups; (3) review the findings of fact and decision of each impartial due process hearing; (4) assist in developing and reporting such information and evaluations as may aid DoDDS in the performance of its duties; (5) make recommendations based on program and operational information for changes in the budget, organization, and general management of the special education program, and in policy and procedure; (6) comment publicly on rules or standards regarding the education of handicapped children; and (7) submit an annual report of its activities and suggestions to the Director, DoDDS, by July 31 of each year. The Panel will review the following areas: Staff development, special education program evaluation, administration, and budget.

Dated: February 14, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–3810 Filed 2–16–90; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection concerning Professional Employee Compensation.

ADDRESSES: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, OMB, room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. John L. O'Neill, Office of Federal Acquisition Policy, (202) 523–3856 or Mr. Owen Green, Defense Acquisition Regulatory Council, (703) 697–7268.

SUPPLEMENTARY INFORMATION:

a. *Purpose:* OFPP Policy Letter No. 78–2, March 29, 1978, requires that all professional employees shall be compensated fairly and properly. Implementation of this requires that a total compensation plan setting forth proposed salaries and fringe benefits for professional employees with supporting data be submitted to the contracting officer for evaluation. The compensation plan and supporting data is evaluated and viewed as being within the purview of Public Law 87–653 (10) U.S.C. 2306(f) and Federal Acquisition Regulation 15.802(a). The compensation plan will be attached to the offeror's offer and place in the contract file.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, 7120; responses per respondent, 1; total annual responses, 7120; hours per response, .5; and total response burden hours, 3560.

Obtaining Copies of Proposals: Requester may obtain copies from General Services Administration, FAR Secretariat (VRS), room 4041, Washington, DC 20405, telephone (202) 523–4755. Please cite OMB Control No. 9000–0066, Professional Employee Compensation.

Dated: February 12, 1990.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 90–3824 Filed 2–16–90; 8:45 am]

BILLING CODE 6820–34–M

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection concerning Organization and Direction of Work.

ADDRESSES: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, OMB, room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. John L. O'Neill, Office of Federal Acquisition Policy, (202) 523–3856 or Mr. Owen Green, Defense Acquisition Regulatory Council, (703) 697–7268.

SUPPLEMENTARY INFORMATION: a. *Purpose:* When the Government awards a cost-reimbursement construction contract, the contractor must submit to the contracting officer and keep current a chart showing the general executive and administrative organization, the personnel to be employed in connection with the work under the contract, and their respective duties. The chart is used in administration of the contract and as an aid in determining cost. The chart is used by contract administration personnel to assure the work is being properly accomplished at reasonable prices.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, 50; responses per respondent, 1; total annual responses, 50; hours per response, 75; and total response burden hours, 38.

Obtaining copies of proposals: Requester may obtain copies from General Services Administration, FAR Secretariat (VRS), room 4041, Washington, DC 20405, telephone (202) 523–4755. Please cite OMB Control No. 9000–0064, Organization and Direction of Work.

Dated: February 12, 1990.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 90–3825 Filed 2–16–90; 8:45 am]

BILLING CODE 6820–34–M

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection concerning North Carolina Sales Tax Certification.

ADDRESSES: Send comments to Ms. Eyvette Flynn, GAR Desk Office, OMB, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. John L. O'Neill, Office of Federal Acquisiton Policy, (202) 523–3856 or Mr. Owen Green, Defense Acquisition Regulatory Council, (703) 697–7268.

SUPPLEMENTARY INFORMATION: a. *Purpose:* The North Carolina Sales and Use Tax Act authorizes counties and incorporated cities and towns to obtain each year from the Commissioner of Revenue of the State of North Carolina a refund of sales and use taxes indirectly paid on building materials, supplies, fixtures, and equipment that become a part of or are annexed to any building or structure in North Carolina. However, to substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures, or equipment by a contractor, the Government must secure from the contractor certified statements setting forth the cost of the property purchased from each vendor and the amount of sales or use taxes paid. Similar certified statements by subcontractors must be obtained by the general contractor and furnished to the Government.

The information is used as evidence to establish exemption from State and local taxes.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, 106; responses per respondent, 4; total annual responses, 424; hours per response, .17; and total response burden hours, 72.

Obtaining copies of proposals: Requester may obtain copies from General Services Administration, FAR Secretariat (VRS), Room 4041, Washington, DC 20405, telephone (202) 523–4755. Please cite OMB Control No. 9000–0059, North Carolina Sales Tax Certification.

Dated: February 12, 1990.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 90–3826 Filed 2–16–90; 8:45 am]

BILLING CODE 6820–34

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

February 15, 1990.

The USAF Scientific Advisory Board Ad Hoc Committee Summer Study on Technology Options and Concepts for Defeating Enemy Air Defenses will meet on 7–9 Mar 90 from 8 a.m. to 5 p.m. at the National Security Agency, Fort Meade, MD.

The purpose of this meeting will be to discuss programs related to the support of Electronic Combat. This meeting will involve discussions of classified defense matters listed in Section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90–3937 Filed 2–16–90; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP90–657–000, et al.]

Williams Natural Gas Company, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Williams Natural Gas Company

[Docket No. CP90–657–000]

February 6, 1990.

Take notice that on January 29, 1990, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP90–657–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Rangeline Corporation (Rangeline), under Williams' blanket certificate issued in Docket No. CP86–631–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Williams requests authorization to transport, on a firm basis, up to a maximum of 440 dt of natural gas per day for Rangeline from receipt points located in Kansas, Missouri and Oklahoma to delivery points located in Missouri. Williams anticipates transporting 252 dt on an average day and 91,980 dt on an annual basis.

Williams states that the transportation of the natural gas for Rangeline commenced December 1, 1989, as reported in Docket No. ST90–1435–000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Williams in Docket CP86–631–000.

Comment date: March 23, 1990, in accordance with Standard paragraph G at the end of this notice.

2. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP90–668–000]

February 6, 1990.

Take notice that on January 31, 1990, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP90–668–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a firm transportation service for Arco Oil and Gas Company (Arco), a producer, under the blanket certificate issued in Docket No. CP86–435–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern states that pursuant to a transportation agreement dated December 8, 1989, under its Rate Schedule FT–1, it proposes to transport up to 20,000 MMBtu per day equivalent of natural gas per day for Arco. Northern states that it would transport the gas from receipt points shown in Appendix "A" of the transportation agreement and would deliver the gas to a delivery point also shown in Appendix "A" of the agreement.

Northern advises that service under § 284.223(a) commenced on December 7, 1989, as reported in Docket No. ST90–1338 (filed January 5, 1990). Northern further advises that it would transport 15,000 MMBtu on an average day and 7,300,000 MMBtu annually.

Comment date: March 23, 1990, in accordance with Standard paragraph G at the end of this notice.

3. Columbia Gulf Transmission Corporation

[Docket No. CP90–573–000]

February 6, 1990.

Take notice that on January 18, 1990, Columbia Gulf Transmission Corporation (Columbia Gulf) 3805 West Alabama, Houston, Texas 77027, filed a request, as supplemented January 30, 1990, with the Commission in Docket No. CP90–573–000, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA), for authorization to transport natural gas on behalf of Diamond Shamrock Offshore Partners Limited Partnership (Diamond Shamrock), a natural gas marketer, under the blanket certificate issued in Docket No. CP86–239–000 pursuant to section 7 of the NGA, all as more fully set forth in the request which is open to public inspection.

Columbia Gulf proposes an interruptible natural gas transportation service of up to 7,000 Dth on peak days, 3,000 Dth on average days, and 1,095,000 Dth annually for Diamond Shamrock. Columbia Gulf would transport gas for Diamond Shamrock's account from receipt points in Vermillion Block 57, offshore Louisiana, and Vermilion Parish, Louisiana, to Texas Gas Transmission Corporation (Texas Gas), a third party transporter, at a delivery point in Acadia Parish, Louisiana. Texas Gas then transports the gas to the Acadian Corporation, an end-user. Columbia Gulf states that it commenced transporting natural gas for Diamond Shamrock on December 6, 1989, under § 284.223(a) of the Regulations, as reported in Docket No. ST90–1362.

Comment date: March 23, 1990, in accordance with Standard paragraph G at the end of this notice.

4. The Inland Gas Company, Inc.

[Docket No. CP90–665–000]

February 6, 1990.

Take notice that on January 30, 1990, The Inland Gas Company, Inc. (Inland), 336–338 Fourteenth Street, Ashland, Kentucky 41101, filed in Docket No. CP90–665–000 a request pursuant to

§§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Centran Corporation (Shipper) under the blanket certificate issued in Docket No. CP89–779–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission

Inland states that it proposes to transport up to 17,000 MMBtu of natural gas for shipper on a peak day, 2,000 MMbtu on an average day, and 730,000 MMbtu annually, under ITS Rate Schedule. This service was reported to the Commission in Docket No. ST90–1328–000. Inland further states that construction of facilities will be required to provide the proposed service.

Comment date: March 23, 1990, in accordance with Standard paragraph G at the end of this notice.

5. Transcontinental Gas Pipe Line Corporation

[Docket No. CP90–670–000]

February 6, 1990.

Take notice that on January 31, 1990, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP90–670–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Citizens Gas Supply Company (Citizens), a marketer, under the blanket certificate issued in Docket No. CP88–328–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Transco states that pursuant to a service agreement dated November 14, 1989, under its Rate Schedule IT, it proposes to transport up to 300,000 dekatherms (dt) per day equivalent of natural gas for Citizens. Transco states that it would transport the gas from receipt points located offshore and onshore Louisiana, offshore and onshore Texas, and in Mississippi, Pennsylvania, and New Jersey, and would deliver the gas at delivery points in Louisiana and Texas.

Transco advises that service under § 284.223(a) commenced December 1, 1989, as reported in Docket No. ST90–1324. Transco further advises that it would transport 50,000 dt on an average day and 109,500,000 dt annually.

Comment date: March 23, 1990, in accordance with Standard Paragraph G at the end of this notice.

6. Columbia Gas Transmission Corporation

[Docket No. CP90–534–000]

February 6, 1990.

Take notice that on January 16, 1990, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314, filed in Docket No. CP90–534–000, a request pursuant to § 157.205 of the Commission's Regulations (18 CFR 157.205) for authorization to provide a transportation service on behalf of Quaker State Corporation (Quaker State) under Columbia's blanket certificate issued in Docket No. CP86–240–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia states that it proposed to transport up to 7,000 MMBtu equivalent of natural gas per day, on an interruptible basis, for Quaker State. Columbia further states that projected average day and annual quantities are 5,600 and 2,555,000 MMBtu, respectively. Columbia indicates that it would receive the natural gas from various Appalachian meters on Columbia's pipeline system and would redeliver the natural gas for the account of Quaker State at existing interconnections with Columbia's transmission system.

Columbia states that service under § 284.223(a) of the Commission's Regulations (18 CFR 284.223(a)) commenced on November 1, 1989, as reported in Docket No. ST90–857–000.

Comment date: March 23, 1990, in accordance with Standard Paragraph G at the end of this notice.

7. Transcontinental Gas Pipe Line Corporation

[Docket No. CP90–675–000]

February 7, 1990.

Take notice that on February 1, 1990, Transcontinental Gas Pipeline Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP90–675–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88–328–000 pursuant to section 7 of the natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Transco proposes to transport natural gas on an interruptible basis for Shell Gas Trading (Shell). Transco explains that service commenced January 1, 1990, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90–1590. Transco explains that the peak day quantity would be 25,000 dt, the average daily quantity wold be 25,000 dt, and that the annual quantity would be 9,125,000 dt. Transco explains that it would receive natural gas for Shell's account at existing receipt points in offshore Louisiana and would redeliver the gas at existing delivery points in Louisiana.

Comment date: March 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

8. Trunkline Gas Company

[Docket No. CP90–682–000]

February 7, 1990.

Take notice that on February 1, 1990, Trunkline Gas Copany (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP90–682–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport natural gas for American Central Gas Marketing Company (American Central), a shipper and marketer of natural gas, under Trunkline's blanket certificate issued in Docket No. CP86–586–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Trunkline proposes to transport up to 100,000 dekatherms (dt) of natural gas equivalent per day on an interruptible basis on behalf of American Central pursuant to a transportation agreement dated September 2, 1988, between Trunkline and American Central. Trunkline would receive the gas at various existing points of receipt on its system in Texas, offshore Texas, Louisiana, offshore Louisiana, Tennessee, and Illinois, and deliver equivalent volumes, less fuel used and unaccounted for line loss, to Midwestern Gas Transmission at Potomac in Vermillion County, Illinois.

Trunkline states that the estimated daily and annual quantities would be 20,000 dt and 730,000 dt, respectively. Service under § 284.223(a) commenced on Decemer 1, 1989, as reported in Docket No. ST90–1343–000, it is stated.

Comment date: March 26, 1990, in accordance with Standard Paragrapn G at the end of this notice.

9. Algonquin Gas Transmission Company

[Docket No. CP90-643-000]

February 7, 1990.

Take notice that on January 26, 1990, Algonquin Gas Transmission Company (Algonquin), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP90-643-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Algonquin to construct and operate 2.8 miles of pipeline loop and to transport up to 23,303 MMBtu equivalent of natural gas per day for Columbia Gas Transmission Corporation (Columbia), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Algonquin proposes to construct and operate 1.9 miles of 36-inch pipeline loop parallel to its existing 24-inch mainline in Medway, Massachusetts and 0.9 miles of 12-inch loop on its existing B-1 system in Waterbury, Connecticut at an estimated cost of $6,380,000. Algonquin states that the proposed facilities are necessary to provide a firm transportation service to Columbia on behalf of Columbia's customer, Orange and Rockland Utilities, Inc. (Orange and Rockland). Algonquin states that Orange and Rockland would pay $3,000,000 to Algonquin to be applied to the construction of the facilities and that it would recover the balance of its costs on a unit rate basis by assessing a daily demand charge of $0.15 per MMBtu and a commodity charge of $0.010 per MMBtu pursuant to proposed Rate Schedule AFT-4.

Algonquin states that the proposed transportation would enable Columbia to deliver additional sales volumes under its Rate Schedule CDS to Orange and Rockland as provided in the Stipulation and Agreement that Columbia filed with the Commission in Docket No. RP86-168-000, *et al.* on June 29, 1989. Algonquin states that it would receive the gas from Columbia at an authorized interconnection near Hanover, Morris County, New Jersey and would redeliver the gas to Columbia at an authorized interconnection at Ramapo, Rockland County, New York.

Algonquin states that its proposal as described above would enable Columbia to serve Orange and Rockland in lieu of constructing more expensive facilities on Columbia's system. Algonquin states that its customers would benefit from the proposed facilities and Algonquin's ability to provide additional service.

Comment date: February 28, 1990, in accordance with Standard Paragraph F at the end of this notice.

10. Transwestern Pipeline Company

[Docket No. CP90-692-000]

February 7, 1990.

Take notice that on February 5, 1990, Transwestern Pipeline Company (Transwestern, 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP90-692-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for BridgeGas U.S.A. Inc. (BridgeGas), a marketer, under the blanket certificate issued in Docket No. CP88-133-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Transwestern states that pursuant to a transportation service agreement dated November 5, 1989, under its Rate Schedule ITS-1, it proposes to transport up to 100,000 MMBtu per day equivalent of natural gas for BridgeGas. It is stated that the gas would be transported from receipt points listed by Transwestern in its transportation point catalog, as provided in Exhibit "A" of the transportation agreement, and would deliver the gas to delivery points specified in Exhibit "B" of the agreement.

Transwestern advises that service under § 284.223(a) commenced December 19, 1989, as reported in Docket No. ST90-1393 (filed January 11, 1990). Transwestern further advises that the would transport 75,000 MMBtu on an average day and 36,500,000 MMBtu annually.

Comment date: March 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

11. Williams Natural Gas Company

[Docket No. CP90-660-000]

February 7, 1990.

Take notice that on January 29, 1990, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed a request with the Commission in Docket No. CP90-660-000, pursuant to § 157.205 and 157.212 (a) of the Regulations under the Natural Gas Act (NGA) for authorization to utilize facilities originally installed for the delivery of 311 transportation gas for other purposes, under the authorization issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG proposes to utilize the 311 facilities installed to deliver 311 transportation gas to Miami Pipeline Company (Miami) in Miami County, Kansas for deliveries of any eligible shipper. The cost to construct the facilities was $9,625 which was paid from funds on hand.

WNG states that this change is not prohibited by an existing tariff and it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to the other customers.

Comment date: March 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

12. Northwest Pipeline Corporation

[Docket No. CP90-633-000]

February 7, 1990.

Take notice that on January 25, 1990, Northwest Pipeline Corporation (Northwest), P.O. Box 8900, Salt Lake City, Utah 84108-0900, filed Docket No. CP90-633-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for Texaco, Inc. (Texaco), a producer of natural gas, under its blanket certificate issued in Docket No. CP86-578-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest states that it proposes to transport natural gas for Texaco from various receipt point on its system to delivery points located on its system. Northwest further states that the maximum daily, average and annual quantities that it would transport for Texaco would be 100,000 MMBtu equivalent of natural gas, 125 MMBtu equivalent of natural gas and 50,000 MMBtu equivalent of natural gas, respectively. Northwest indicates that in a filing made with the Commission on January 17, 1990, it reported in Docket No. SP90-1474-000 that transportation service for Texaco had begun on December 17, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: March 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

13. Northwest Pipeline Corporation

[Docket No. CP90-671-000]

February 7, 1990.

Take notice that on January 31, 1990, Northwest Pipeline Corporation

(Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP90–671–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to provide an interruptible natural gas transportation service for Bonneville Fuels Corporation (Bonneville), a producer of natural gas, under Northwest's blanket certificate issued in Docket No. CP86–578–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Pursuant to a transportation service agreement dated January 9, 1989, as amended September 1, 1989, Northwest proposes to transport up to 7,500 MMBtu of natural gas per day for Bonneville under its TI–1 Rate Schedule. The agreement provides for Northwest to transport the subject gas from various exiting points of receipt located along its system and to redeliver the gas to various existing points of delivery located along its system. Northwest estimates that the average day and annual transportation quantities would be 2,500 and 900,000 MMBtu, respectively. Northwest advises that the service commenced December 1, 1989, as reported in Docket No. ST90–1600–000 (filed January 25, 1990), pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: March 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

14. Vitisator Inc.

[Docket No. CI90–44–000]

February 7, 1990.

Take notice that on January 31, 1990, Vitisator Inc. (Vitisator), c/o Travis & Gooch, 1100 15th Street NW., Suite 1200, Washington, DC 20005, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited term blanket certificate with pregranted abandonment to authorize sales for resale in interstate commerce of natural gas purchased from any and all available sources, both domestic and foreign and from first and resale sellers, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: February 26, 1990, in accordance with Standard Paragraph J at the end of this notice.

15. Mississippi River Transmission Corporation

[Docket No. CP90–622–000]

February 7, 1990.

Take notice that on January 25, 1990, Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis, Missouri, filed in Docket No. CP90–622–000 a request, as supplemented on February 2, 1990, pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide an interruptible transportation service for Pfizer Pigments, Inc. (Pfizer) under the blanket certificate issued in Docket No. CP89–1121–000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

MRT states that pursuant to a transportation service agreement dated November 17, 1989, it proposes to receive up to eight billion Btu of natural gas per day at specified points located in Texas, Louisiana, Arkansas and Illinois and redeliver the gas to a delivery point located in Illinois. MRT estimates that the peak day and average day volumes would be eight billion Btu and that the annual volumes would be 2,920 billion Btu. It is indicated that on December 1, 1989, MRT initiated a 120-day transportation service for Pfizer under § 284.223(a), as reported in Docket No. ST90–1307–000.

MRT further states that no facilities need be constructed to implement the service. MRT states that the primary term of the agreement would expire on December 1, 1990, but would continue on a month-to-month basis unless cancelled on thirty day's written notice by either party. MRT proposes to charge rates and abide by the terms and conditions of its Rate Schedule ITS.

Comment date: March 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

16. Colorado Interstate Gas Company

[Docket No. CP90–686–000]

February 7, 1990.

Take notice that on February 2, 1990, Colorado Interstate Gas Company (CIG), P.O. Bos 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP90–686–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to perform an interruptible transportation service for Mega Natural Gas Company (Mega), under CIG's blanket certificate issued in Docket No. CP86–589–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

CIG states that pursuant to a transportation agreement dated November 3, 1989, it proposes to transport up to 10,000 Mcf per day for Mega. CIG states that it would receive the gas at specified points located in the states of Colorado and Wyoming and redeliver the gas at an existing point of interconnection with Raton Gas Transmission Company located in Las Animas County, Colorado. CIG estimates that the peak day, average day and annual volumes would be 10,000 Mcf, 5,000 Mcf, and 1,800,000 Mcf, respectively. It is stated that on November 4, 1989, CIG initiated a 120-day transportation service for Mega under § 284.223(a), as reported in Docket No. ST90–638–000.

CIG further states that no facilities need be constructed to implement the service. CIG indicates that the service would continue until terminated by thirty days' prior written notice by either CIG or Mega. CIG proposes to charge rates and abide by the terms and conditions of its Rate Schedule TI–1.

Comment date: March 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

17. Transcontinental Gas Pipe Line Corporation

[Docket No. CP90–676–000]

February 8, 1990.

Take notice that on February 1, 1990, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP90–676–000 an application pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Superior Natural Gas Corporation (Superior), under Transco's blanket certificate issued in Docket No. CP88–328–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commisson and open to public inspection.

Transco proposes to transport, on an interruptible basis, up to 25,000 Dt. equivalent of natural gas per day for Superior. Transco states that construction of facilities would not be required to provide the proposed service.

Transco further states that the maximum day, average day, and annual transportation volumes would be approximately 25,000 Dt. equivalent,

25,000 Dt. equivalent, and 9,125,000 Dt. equivalent respectively.

Transco advises that service under § 284.223(a) commenced January 3, 1990, as reported in Docket No. ST90–1589.

Comment date: March 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

18. Northwest Pipeline Corporation

[Docket No. CP90–684–000]

February 8, 1990.

Take notice that on February 1, 1990, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed a request with the Commission in Docket No. CP90–157–000, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA), for authorization to transport natural gas for Thermal Exploration, Inc. (Thermal), a natural gas producer, under Northwest's blanket certificate issued in Docket No. CP86–578–000 pursuant to section 7 of the NGA, all as more fully set forth in the request which is open to public inspection.

Northwest proposes an interruptible natural gas transportation service of up to 30,000 MMBtu equivalent on peak days, 800 MMBtu equivalent on average days, and 300,000 MMBtu equivalent annually for Thermal. Northwest would receive the gas at an existing interconnection on its pipeline system in Lincoln County, Wyoming, and deliver equivalent volumes for Thermal's account at an existing interconnection also on its pipeline system in Lincoln County, Wyoming. Northwest states that it commenced transporting natural gas for Thermal's account on December 1, 1989, under § 284.223(a) of the Regulations as reported in Docket No. ST90–1587.

Comment date: March 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

19. Transwestern Pipeline Company

[Docket No. CP90–698–000]

February 8, 1990.

Take notice that on February 5, 1990, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP90–698–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a transportation service for Williams Gas Marketing Company (Williams), a marketer, under the blanket certificate issued in Docket No. CP88–133–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Transwestern states that pursuant to a transportation service agreement dated November 29, 1989, under its Rate Schedule ITS–1, it proposes to transport up to 8,000 MMBtu per day equivalent of natural gas for Williams. Transwestern states that it would transport the gas from receipt points located in Dewey and Ellis Counties, Oklahoma, and Hemphill County, Texas, and would redeliver the gas to delivery points in Dewey County, Oklahoma and Hemphill County, Texas.

Transwestern advises that service under § 284.223(a) commenced December 1, 1989, as reported in Docket No. ST90–1228 (filed December 29, 1989). Transwestern further advises that it would transport 6,000 MMBtu on a average day and 2,920,000 MMBtu annually.

Comment date: March 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

20. United Gas Pipe Line Company

[Docket No. CP90–654–000]

February 8, 1990.

Take notice that on January 29, 1990, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed a request with the Commission in Docket No. CP90–654–000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to transport natural gas for PSI, Inc. (PSI), a natural gas marketer, under United's blanket certificate issued in Docket No. CP88–6–000, pursuant to section 7 of the NGA, all as more fully set forth in the request which is open to public inspection.

United proposes an interruptible natural gas transportation service under its FERC Rate Schedule ITS of 20,600 MMBtu equivalent on peak and average days and 7,519,000 MMBtu equivalent annually for PSI. United states that it would receive gas for PSI's account at the metered end of a subsea lateral in South Marsh Island Block 155, offshore Louisiana, and deliver the gas at the unmetered end of the lateral, also in South March Island Block 155. United commenced transporting gas for PSI on December 1, 1989, under the 120-day automatic authorization provisions of § 284.223(a) of the Regulations, as reported in Docket No. ST90–1102.

Comment date: March 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

21. Stingray Pipeline Company

[Docket No. CP90–696–000]

February 8, 1990.

Take notice that on February 5, 1990, Stingray Pipeline Company (Stingray), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP696–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on an interruptible basis for NICOR Exploration Company (NICOR), a producer of natural gas, under the blanket certificate issued by the Commission's Order No. 509; pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Stingray states that it would receive the gas for NICOR at various existing points of receipt in offshore Louisiana, Louisiana and offshore Texas, and would redeliver the gas at existing delivery points located in Louisiana and offshore Texas.

Stingray further states that the maximum daily, average daily and annual quantities that it would transport for NICOR would be 4,000 MMBtu equivalent of natural gas, 3,500 MMBtu equivalent of natural gas and 1,227,500 MMBtu equivalent of natural gas, respectively.

Stingray indicates that in a filing made with the Commission on December 28, 1989, in Docket No. ST90–1215, it reported that transportation service for NICOR commenced on December 1, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: March 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

22. Stingray Pipeline Company

[Docket No. CO90–699–000]

February 8, 1990.

Take notice that on February 5, 1990, Stingray Pipeline Company (Stingray), Post Office Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP90–699–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Elf Aquitaine Operating, Inc. (Elf Aquitaine), a producer of natural gas, under the blanket certificate issued by the Commission's Order No. 509, pursuant to section 7 of the Natural Gas Act, corresponding to the rates, terms and conditions filed in Docket No. RP90–70–000, all as more fully set forth in the request which is on file with the

Commission and open to public inspection.

Stingray would perform the proposed interruptible transportation service for Elf Aquitaine, pursuant to a transportation service agreement dated November 21, 1989. The transportation agreement is effective for a primary term ending December 31, 1989, and month-to-month thereafter until terminated by either party upon at least 30 days prior notice. Stingray proposes to transport 75,000 Dekatherms (Dth) of natural gas on a peak day; 30,000 Dth on an average day; and on an annual basis 10,950,000 Dth of natural gas for Elf Aquitaine. Stingray proposes to receive the subject gas at the Sun Offshore Separation Facility in Cameron Parish, Louisiana, and various existing points of receipt on its Offshore Louisiana and Offshore Texas system. Stingray will then transport and redeliver the gas to Holly Beach, OXY–NGL Plant and LRC located in Section 35–T15S–R13W, Cameron Parish, Louisiana and Stingray–HIOS Exchange (HI–A330) located offshore Texas. No new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. Stingray commenced such self-implementing service of December 1, 1989, as reported in Docket No. ST90–1216–000.

Comment date: March 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

23. Columbia Gas Transmission Corporation

[Docket No. CP90–679–000]

February 8, 1990.

Take notice that on February 1, 1990, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314, filed an application in Docket No. CP90–679–000 pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience of necessity authorizing Applicant to initiate firm sales service to Piedmont Natural Gas Company (Piedmont), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to provide to Piedmont (1) a total of 5,000 dt equivalent of natural gas per day of contract demand and an annual entitlement nomination of 1,472,826 dt equivalent of natural gas of firm sales service under Applicant's Rate Schedule CDS, and (2) a total of 10,000 dt equivalent of natural gas per day of maximum daily quantity and 600,000 dt equivalent of natural gas of winter contract quantity under Applicant's Rate Schedule WS. Applicant states that no new or additional facilities are required by Applicant or Piedmont to render the proposed service.

It is indicated that the proposed services would be rendered by establishing a new point of delivery from Columbia Gulf Transmission Company (Columbia Gulf) to Applicant at an existing interconnection between the facilities of Columbia Gulf and Piedmont near Nashville, Tennessee. Applicant states that Columbia Gulf would provide transportation service for Applicant of the quantities of Piedmont's CDS and WS service under Columbia Gulf's existing Rate Schedule T–1. It is further indicated that the interconnection would be established as a point of delivery to Applicant pursuant to § 157.208 of the Commission's Regulation under the automatic provisions of Columbia Gulf's blanket certificate authorization issued in Docket No. CP83–496–000. Applicant states that the facilities were originally constructed by Columbia Gulf to provide transportation service for Piedmont pursuant to section 311 of the Natural Gas Policy Act of 1978.

Applicant indicates that it has agreed to make a contribution to Piedmont in the amount of approximately $120,000, which represents the net depreciated book value, at the time of commencement of service, associated with the reimbursement made by Piedmont to Columbia Gulf for the original cost of the facilities.

Comment date: March 1, 1990 in accordance with Standard Paragraph F at the end of the notice.

24. ANR Pipeline Company

[Docket No. CP90–707–000]

February 8, 1990.

Take notice that on February 6, 1990, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90–707–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a firm transportation service for Country Fresh Dairy, Inc. (Country Fresh), an end user, under the blanket certificate issued in Docket No. CP88–532–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

ANR states that pursuant to a transportation service agreement dated October 11, 1989, under its Rate Schedule FTS–1, it proposes to transport up to 112 dekatherms (dt) per day equivalent of natural gas for Country Fresh. ANR states that it would transport the gas from receipt points in the state of Louisiana and the offshore Louisiana gathering area, and would redeliver the gas for the account of Country Fresh at an existing interconnection located in the state of Michigan.

ANR advises that service under § 284.223(a) commenced December 4, 1989, as reported in Docket No. ST90–1317–000. ANR further advises that it would transport 112 dt on an average day and 40,880 dt annually.

Comment date: March 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

25. ANR Pipeline Company

[Docket No. CP90–709–000]

February 8, 1990.

Take notice that on February 6, 1990, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90–709–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a firm transportation service for Centran Corporation (Centran), a marketer, under the blanket certificate issued in Docket No. CP88–532–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

ANR states that pursuant to a transportation service agreement dated November 13, 1989, under its Rate Schedule FTS–1, it proposes to transport up to 1,000 dekatherms (dt) per day equivalent of natural gas for Centran. ANR states that it would transport the gas from receipt points in the state of Louisiana and the offshore Louisiana gathering area, and would redeliver the gas for the account of Centran at an existing interconnection located in the state of Ohio.

ANR advises that service under § 284.223(a) commenced December 6, 1989, as reported in Docket No. ST90–1320–000. ANR further advises that it would transport 1,000 dt on an average day and 365,000 dt annually.

Comment date: March 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

26. ANR Pipeline Company

[Docket No. CP90-710-000]

February 8, 1990.

Take notice that on February 6, 1990 ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-710-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to transport gas on an interruptible basis for Kaztex Energy Management, Inc. (Kaztex) under ANR's blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR states that pursuant to an agreement dated November 3, 1990, it proposes to transport up to 75,000 dt equivalent of natural gas per day for Kaztex. ANR states it would receive the gas at specified points located in onshore and offshore Louisiana and Texas, Oklahoma, and Kansas and redeliver the gas at specified points located in the state of Wisconsin. ANR estimates that the peak day and average day volumes would be 75,000 dt equivalent of natural gas and that the annual volumes would be 27,375,000 dt equivalent of natural gas. It is stated that ANR initiated a 120-day transportation service for Kaztex on December 1, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90-1206-000.

ANR states that it would require no new facilities to implement the service. It is indicated that the primary term of the agreement expires on November 30, 1994, but that the service would continue on a month-to-month basis until terminated on thirty days written notice by either ANR or Kaztex. ANR proposes to charge rates and abide by the terms and conditions of its Rate Schedule ITS.

Comment date: March 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Standard Paragraph

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois. D. Cashell,

Secretary.

[FR Doc. 90-3773 Filed 2-16-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ90-3-24-002, et al.]

Equitrans, Inc.; Request for Approval of Revised Tariff Sheets

February 12, 1990.

In the Matter of Docket Nos. TQ90-3-24-002, RP90-10-002, TQ90-1-24-002, TQ90-2-24-003, TM90-2-24-004, and TQ90-4-24-002.

Take notice that on February 6, 1990, Equitrans, Inc. (Equitrans) filed with the Commission a request for approval of revised tariff sheets to become effective December 1, 1989. Equitrans states it is submitting revised tariff sheets in order to comply with the Commission's letter order dated November 9, 1989, in Docket No. RP90-10-000, providing for PGA recovery of firm transportation charges paid to Texas Eastern Transmission Corporation under that pipeline's Rate Schedule FT-1.

Equitrans states the revised tariff sheets apply to a subsequent PGA filing in Docket No. TQ90-1-24-000, out-of-cycle filings in Docket Nos. TQ90-2-24-000, TQ90-2-24-001, and TQ90-4-24-000, and a scheduled Gas Research Institute filing in Docket No. TM90-2-24-001. Equitrans states the revised tariff sheets, submitted with a proposed effective date of December 1, 1989, include a one-time adjustment of $0.0250 per Dth for commodity, $0.2951 per Dth for D1 in Rate Schedule PLS, and a one-time adjustment of $0.0557 per Dth for commodity in Rate Schedule GS-1. Equitrans proposes that the adjustment remain in effect until the effective date of Equitrans' section 4(e) rate filing in Docket No. RP90-70-000, which will become effective July 1, 1990.

Equitrans is requesting that the tariff sheets issued on January 24 and January 29, 1990, in Docket No. TQ90-3-24-000, *et al.*, be rendered moot upon acceptance of this filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance

with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989). All such protests should be filed on or before February 21, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-3769 Filed 2-16-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-186-000; RP90-20-000]

Great Lakes Gas Transmission Co.; Informal Settlement Conference

February 12, 1990

Take notice that a settlement conference will be convened in this proceeding on February 22, 1990 at 10 a.m. at the offices of the Federal Energy Regulatory Commission, 810 First Street NW., Washington, DC, for the purposes of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact J. Carmen Gastilo (202) 357-8410 or Russell B. Mamone (202) 357-5744.

Lois D. Cashell,

Secretary.

[FR Doc. 90-3767 Filed 2-16-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-183-000; RP89-183-003]

Williams Natural Gas Co.; Informal Settlement Conference

Take notice that on February 26, 1990 at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC 20426, the parties in the above-captioned proceeding will resume informal settlement discussions.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Russell B. Mamone (202) 357-5744.

Lois D. Cashell,

Secretary.

[FR Doc. 90-3768 Filed 2-16-90; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3725-6]

Section 304(1) of the Clean Water Act

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of responses to comments, final list decisions and individual control strategies (ICSs) under section 304(1) of the Clean Water Act.

SUMMARY: Notice is hereby given of the availability of the United States Environmental Protection Agency's (U.S. EPA) responses to comments and final decisions of approval and disapproval of the lists of waters, point sources and pollutants and the individual control strategies for the States of North Carolina, South Carolina, Georgia, Florida, Mississippi, Alabama, Tennessee, and Kentucky under section 304(1) of Clean Water Act as amended by the Water Quality Act of 1987.

DATES: Petitions to add waters and comments on all aspects of the Agency's decisions with regard to the lists of waters, point sources, pollutants, and individual control strategies were to be submitted to the U.S. EPA on or before October 4, 1989. The Regional Administrator is to respond to all comments and petitions on or before June 4, 1990.

ADDRESSES: The U.S. EPA's response to comments and final decisions approving and disapproving the lists of waters, point sources and pollutants and the individual control strategies are available for public review at the following location: Diane Brown, Public Notice Coordinator, Office of Public Affairs, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE. Atlanta, Georgia 30365-2401.

FOR FURTHER INFORMATION CONTACT: Diane Brown of EPA, Region IV at the address given above; telephone (404) 347-3004, (FTS) 257-3004.

SUPPLEMENTARY INFORMATION: Section 304(1) of the Clean Water Act (CWA) as amended by the Water Quality Act of 1987 required every State to develop lists of impaired waters, identify certain point sources and amounts of pollutants causing toxic impact, and to develop individual control strategies for each point source.

The deadline for submitting lists of waters, point sources, amounts of pollutants and the individual control strategies by each State to the U.S. EPA was February 4, 1990. Section 304(1) allowed any person to submit comments or to submit to the U.S. EPA a petition to add waters to one or more of three lists of waters submitted by a State. Petitions and comemnts were due October 4, 1989. Following the close of the comment period the Regional Administrator is to issue a response to comments and petitions. The Regional Administrator has considered all petitions and comments received and has provided a written response to the comments and petitions.

The administrative record containing the U.S. EPA's documentation on its decisions of approval and disapproval is on file and may be inspected at the U.S. EPA, Region IV office between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, except holidays. To make arrangements to examine the administrative record, contact the person named as the contact person above.

Joseph R. Franzmathes,

Acting Regional Administrator.

[FR Doc. 90-3817 Filed 2-16-90; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59277B; FRL 3712-7]

Certain Chemical; Approval of Request for Modification of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of modification of the number of customers for a test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA designated the original test marketing application as TME 89-27. The test marketing conditions are described below.

EFFECTIVE DATE: Febraury 6, 1990.

FOR FURTHER INFORMATION CONTACT: Alan Cole, New Chemicals Branch, Chemical Control Division (TS-794), Office of Toxic Substances,

Environmental Protection Agency, Rm. E-611, 401 M Street SW., Washington, DC 20460, (202 382-3861).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves the request by the TME submitter to supply the TME substances to one additioanl customer. During its initial review, EPA identified no significant health or environmental concerns for the TME substance. Therefore, EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application and modification request, will not present any unreasonable risk of injury to health or the environment. Production volume, use and test marketing period must not exceed that specified in the application. All other conditions and restrictions described in the original Notice of Approval of Test Marketing Application must be met.

T-89-27

Notice of Approval of Original Application: November 8, 1989 (54 FR 46981).

Number of Additional Customers: One (total number confidential).

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: February 6, 1990.

John W. Melone,

Director, Chemical Control Division, Office of Toxic Substances.

[FR Doc. 90-3812; Filed 2-16-90; 8:45 am]

BILLING CODE 6560-50-D

FEDERAL RESERVE SYSTEM

Albany Bancshares, Inc; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 12, 1990.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Albany Bancshares, Inc.*, Albany, Illinois; to engage *de novo* in acting as an insurance agency for the activity of selling life, health and annuity insurance pursuant to § 225.25(b)(8)(iv) of the Board's Regulation Y. This activity will serve a geographic area covering a radium of approximately 15 miles around Albany, Illinois

Board of Governors of the Federal Reserve System, February 13, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-3785 Filed 2-16-90; 8:45 am]

BILLING CODE 6210-01-M

Area Bancshares Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 12, 1990.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Area Bancshares Corporation*, Owensboro, Kentucky; to acquire First Federal Savings and Loan Association of Bowling Green, Bowling Green, Kentucky, and thereby engage in

operating a thrift institution pursuant to § 225.25(b)(9) of the Board's Regulation Y. These activities will be conducted in the State of Kentucky.

Board of Governors of the Federal Reserve System, February 13, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-3786 Filed 2-16-90; 8:45 am]

BILLING CODE 6210-01-M

Arkansas Union Bankshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under section 225.23(a) (2) or (f) for the Board's Regulation Y (CFR 225.23(a) (2) or (f) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in section 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 12, 1990.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Arkansas Union Bankshares, Inc.*, Benton, Arkansas; to acquire Benton Savings and Loan Association, Benton, Arkansas, and thereby engage in operating a savings and loan association pursuant to section 225.25(b)(9) of the Board's Regulation Y. These activities will be conducted out of the main office in Benton, Arkansas.

Board of Governors of the Federal Reserve System, February 13, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-3787 Filed 2-16-90; 8:45 am]

BILLING CODE 6210-01-M

Hometown Bancshares, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 12, 1990.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Hometown Bancshares, Inc.*, Middlebourne, West Virginia; to acquire 13.26 percent of the voting shares of First National Bank of Powhatan Point, Powhatan Point, Ohio.

B. Federal Reserve Bank of Richmond (Fred L. Bagwell, Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Carrollton Bancorp*, Baltimore, Maryland; to become a bank holding company by acquiring 100 percent of the voting shares of The Carrollton Bank of Baltimore, Baltimore, Maryland.

2. *Peoples Bankshares, Inc.*, Mullens, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The Peoples Bank of Mullens, Mullens, West Virginia.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President), 100 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Peoples Financial Services, Inc.*, Cookeville, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Bank and Trust of the Cumberlands, Cookeville, Tennessee.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *AmeriFirst Bancorporation, Inc.*, Sikeston, Missouri; to acquire 100 percent of the voting shares of AmeriFirst Bank, Cape Girardeau, Missouri, a *de novo* bank.

2. *Bumpushares, Inc.*, Atwood, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Bank and Trust Company, Atwood, Tennessee.

3. *Carlson Bancshares, Inc.*, West Memphis, Arkansas; to become a bank holding company by acquiring 92.4 percent of the voting shares of Fidelity Bancorp, Inc., West Memphis, Arkansas, and thereby indirectly acquire Fidelity National Bank of West Memphis, West Memphis, Arkansas.

E. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Barrett Bancorporation, Inc.*, Barrett, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens State Bank of Barrett, Barrett, Minnesota.

F. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Business Banc of America, Inc.*, Abilene, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Bank Service, Inc., Abilene, Kansas, and thereby indirectly acquire Citizens Bank and Trust Company, Abilene, Kansas.

G. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *50th State Bancorporation*, Honolulu, Hawaii; to become a bank holding company by acquiring 100 percent of the voting shares of 50th State Bank, Honolulu, Hawaii, a *de novo* bank.

2. *Multibank Financial Corp.*, Dedham, Massachusetts; to retain 6.25 percent of the voting shares of the Waltham Corporation, Waltham, Massachusetts, and thereby indirectly retain Waltham Savings Bank (Waltham), Waltham, Massachusetts; and 6.38 percent of the voting shares of Andover Bancorp, Inc., Andover, Massachusetts, and thereby indirectly retain Andover Savings Bank (Andover), Andover, Massachusetts. Both Andover and Waltham engage in Massachusetts Savings Bank Life Insurance activities.

3. *Security Pacific Corporation*, Los Angeles, California; to acquire 20 percent of the voting shares of Mitsui Manufacturers Bank, Los Angeles, California.

Board of Governors of the Federal Reserve System, February 13, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-3788 Filed 2-16-90; 8:45 am]

BILLING CODE 6210-01-M

Merchant Bank Corp., et al., Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 12, 1990.

A. Federal Reserve Bank of Atanta (Robert E. Heck, Vice President) 100 Marietta Street, NW., Atanta, Georgia 30303:

1. *Merchant Bank Corporation*, Atlanta, Georgia; to engage *de novo* through its subsidiary, Merchant Mortgage Corporation, Atlanta, Georgia, in making, acquiring, and servicing loans for its own account and for the account of others, such as would be made by a mortgage company pursuant to section 225.25(b)(1)(i); and selling as agent or broker, credit life and accident health insurance that is directly related to its extensions of credit, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Mid Town Bancorp, Inc.*, Chicago, Illinois; to engage *de novo* through its subsidiary, Mid Town Mortgage Corp., Chicago, Illinois, in making, acquiring, and servicing loans and other extensions of credit pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in the State of Illinois.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Extraco Bankshares, Inc.*, Temple, Texas; to engage *de novo* in making direct cash loans for directors qualifying shares pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in Temple, Texas.

Board of Governors of the Federal Reserve System, February 13, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-3789 Filed 2-16-90; 8:45 am]

BILLING CODE 6210-01-M

Muskingham Valley Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 12, 1990.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. **Muskingum Valley Bancshares, Inc.**, Beverly, Ohio; to acquire 100 percent of the voting shares of The Bartlett Farmers Bank, Bartlett, Ohio.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President), 100 Marietta Street, NW., Atlanta, Georgia 30303:

1. **BMR Financial Group, Inc.**, Atlanta, Georgia; to merge with Meigs County Bancshares, Inc., Decatur, Tennessee, and thereby indirectly acquire Meigs County bank, Decatur, Tennessee.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President), 250 Marquette Avenue, Minneapolis, Minnestoa 55480:

1. **Taylor Bancshares, Inc.**, North Mankato, Minnesota; to acquire 100 percent of the voting shares of Farmers National Bank of Minnesota Lake, Minnesota Lake, Minnesota.

Board of Governors of the Federal Reserve System, February 13, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-3790 Filed 2-16-90; 8:45 am]

BILLING CODE 6210-01-M

Ronald Samuels; Change in Bank Control; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and 225.41 of the Board's Regulation Y (12

CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 5, 1990.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Ronald Samuels*, Parker, Texas; to acquire 27.41 percent; Dianna W. Skeeters, Radcliff, Kentucky, to acquire 27.41 percent; James W. Parker, Plano, Texas, to acquire 13.71 percent; Jerry Dwight, Richardson, Texas, to acquire 13.71 percent; and Carl Eatherly, Plano, Texas, to acquire 7.15 percent of the voting shares of IB Bancshares, Inc., Plano, Texas, and thereby indirectly acquire Independence Bank, Plano, Texas.

Board of Governors of the Federal Reserve System, February 13, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-3791 Filed 2-16-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee Meeting in February; Immunology and AIDS Subcommittee of the Alcohol Biomedical Review Committee; Cancellation of Meeting

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Cancellation of meeting.

SUMMARY: Public notice was given in the **Federal Register** on January 11, 1990, Volume 55, No. 8, on page 1106 that the meeting of the Immunology and AIDS Subcommittee of the Alcohol Biomedical Research Review Committee, NIAAA, would be meeting on February 22-23. The meeting has been canceled.

Dated: February 14, 1990.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 90-3855 Filed 2-16-90; 8:45 am]

BILLING CODE 4160-20-M

Advisory Committee Meetings in March

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the schedule and proposed agendas of the forthcoming meetings of the agency's advisory committees in the month of March 1990.

The initial review committees will be performing review of applications for Federal assistance. Therefore, portions of the meetings will be closed to the public and determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552(b)(6) and 5 U.S.C. app. 2 10(d).

Notice of these meetings is required under the Federal Advisory Committee Act, Public Law 92-463.

Committee Name: Clinical, Psychosocial, and Behavioral Sciences Subcommittee of the Mental Health Acquired Immunodeficiency Syndrome Research Review Committee, NIMH

Date and Time: March 9-10: 8:30 a.m.

Place: The River Inn, 924 Twenty-Fifth Street, NW., Washington, DC 20037

Status of Meeting: Open—March 9: 8:30-9:15 a.m. Closed—Otherwise

Contact: Regina Thomas, Room 9C-15, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-6470

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of research and activities in the areas of clinical, psychosocial, and behavioral sciences aspects of AIDS as they relate to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Psychobiological, Biological, and Neurosciences Subcommittee of the Mental Health Acquired Immunodeficiency Syndrome Research Review Committee, NIMH

Date and Time: March 9-10: 8:30 a.m.

Place: The River Inn, 924 Twenty-Fifth Street, NW., Washington, DC 20037

Status of Meeting: Open—March 9: 8:30-9:15 a.m. Closed—Otherwise

Contact: Michelle Burns, Room 9C-15, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-6470

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of research and activities in the areas of psychobiological, biological, and neurosciences aspects of AIDS as they relate to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Biobehavioral/Clinical Subcommittee of the Drug Abuse AIDS Research Review Committee, NIDA

Date and Time: March 13-15: 9:00 a.m.

Place: Holiday Inn Crowne Plaza, Twinbrook Room, 1750 Rockville Pike, Rockville, MD 20852

Status of Meeting: Open—March 13: 9:00-9:30 a.m. Closed—Otherwise

Contact: Iris W. O'Brien, Room 10-42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Sociobehavioral Research Subcommittee of the Drug Abuse AIDS Research Review Committee, NIDA

Date and Time: March 13-15: 9:00 a.m.

Place: Holiday Inn Crowne Plaza, Twinbrook Room, 1750 Rockville Pike, Rockville, MD 20852

Status of Meeting: Open—March 13: 9:00-9:30 a.m. Closed—Otherwise

Contact: H. Noble Jones, Room 10-42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Substantive information, summaries of the meetings, and rosters of committee members may be obtained as follows: Ms. Camilla Holland, NIDA Committee Management Officer, Room 10-42, (301) 443-2620; Ms. Joanna Kieffer, NIMH Committee Management Officer, Room 9-105, (301) 443-4333. The mailing address for the above parties is:

Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: February 13, 1990.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 90-3748 Filed 2-16-90; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

Ammonia Detoxification of Aflatoxin-Contaminated Animal Feeds Public Master File; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Center for Veterinary Medicine (CVM), is establishing a Public Master File (PMF-5289) as a repository for information concerning the use of ammonia to detoxify aflatoxin-contaminated animal feeds. The data and information submitted to PMF-5289 may be used to support approval of a petition filed by any person.

ADDRESSES: Submit relevant data and information to the Document Control Unit (HFV-16), Center for Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William D. Price, Center for Veterinary Medicine (HFV-221), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4438.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 27, 1979 (44 FR 44276), FDA published a notice of filing of a food additive petition (FAP-2172) sponsored by the National Cottonseed Products Association. The petition provided for the use of ammoniated cottonseed meal resulting from the inactivation of aflatoxin in cottonseed meal by treatment with anhydrous ammonia. The treated cottonseed meal is for use in ruminant feeds and in feed for laying chickens. The food additive petition was not approved because of the lack of evidence of safety of the ammoniation reaction products.

The Association of American Feed Control Officials (AAFCO), in a letter of October 27, 1989, discussed the ammoniation of animal fees to reduce levels of aflatoxin and argued that ammoniation procedures should be approved by the agency. AAFCO cited research at the University of Arizona on the mutagenic and carcinogenic potential of milk from cows fed ammoniated and nonammoniated cottonseed. The studies have not been made available to FDA, although the researchers have offered to submit these studies plus previously-conducted trout studies for FDA review.

FDA responded by letter dated January 22, 1990, stating the agency's concern over the potential toxicity including carcinogenicity of reaction products in human foods. To expedite review of the studies cited by AAFCO, and to provide a repository for other studies on the ammoniation of animal feeds to reduce levels of aflatoxin, CVM has created PMF-5289 for submission of such data and information.

CVM is inviting the submission of data and information concerning the treatment of animal feeds with ammonia to reduce aflatoxin contamination. Such submissions should be filed in PMF-5289 at the CVM Document Control Unit (address above). All such information is available for public inspection and copying through the contact person (see above). Sponsors of petitions may refer to the PMF without further authorization.

The potential environmental impact of this action has not been reviewed. Prior to any approval of a petition, that impact will be reviewed as provided in 21 CFR 25.40(c), and the results of such review will be made available for comment.

Dated: February 12, 1990.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 90-3852 Filed 2-16-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89N-0467]

Licensure of Hepatitis Anti-HBc Test Kits

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the agency will regulate in vitro diagnostic test kits that detect total antibody (both IgG and IgM antibody) to hepatitis B core antigen (anti-HBc) as licensed biologics under the Public Health Service Act. Currently, FDA is approving these kits for diagnostic use through the review of premarket approval applications (PMA's) under the Medical Device Amendments of 1976. FDA now intends to license these test kits as biologics because the major use of these products has changed from clinical diagnostic use to that of screening licensed blood and blood products intended for transfusion.

DATES: Any submission to FDA for approval of an anti-HBc test kit after March 31, 1990, shoulc be submitted in the form of a product license application. Manufacturers of anti-HBc test kits that are currently approved under a PMA must submit a product license application, and, unless the establishment already holds an establishment license, an establishment license application. A manufacturer should submit an establishment license amendment if the manufacturer already holds an establishment license. By March 31, 1991, all manufacturers marketing anti-HBc test kits will be required to hold appropriate product and establishment licenses.

ADDRESSES: Establishment and product license applications to the Food and Drug Administration, Division of Product Certification (HFB-240), 8800 Rockville Pike, Bethesda, MD 20892. Comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robin Biswas, Center for Biologics Evaluation and Research (HFB-460), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-496-4288.

SUPPLEMENTARY INFORMATION: The anti-HBc test kit is an in vitro diagnostic device that is indicated for detection of total antibody (both IgG and IgM) to hepatitis B core antigen (anti-HBc) in human serum or plasma. This device is used as an aid in the diagnosis of ongoing or previous hepatitis infection. Currently, the majority of blood establishments use the product to screen blood and blood products intended for transfusion to detect some cases of hepatitis B infection not detected by the FDA required test for hepatitis B surface antigen (HBsAg). Blood establishments also use the test as a surrogate test for hepatitis non-A, non-B, another form of transfusion transmitted hepatitis occurring in blood recipients. Such blood establishments have deferred prospective blood donors who test positive for antibody to anti-HBc from the donation of blood and blood components intended for transfusion.

When FDA initially approved the PMA's, the products were intended for use as a diagnostic product in a clinical setting. More recently, major blood organizations have required their members (blood establishments) to use these products to screen blood. FDA finds that this action is a substantial

change in the use of the product. Because anti-HBc test kits are biological products used in the screening of licensed blood products, FDA will require licensure for the test kits. This policy is consistent with FDA's licensure of other test kits that are used to screen blood, such as the test for detecting HBsAg and the ELISA test kits for detecting antibody to human immunodeficiency virus. As part of licensing requirements, FDA will require lot release of these products to help assure that the anti-HBc test kits are of uniform high quality andthat the test results are dependable and reproducible.

This notice does not apply to anti-HBc test kits that detect only IgM antibody to hepatitis core antigen, because these kits are not intended for blood screening uses. These products will continue to be regulated by FDA as class III in vitro diagnostic devices and will be approved through the PMA process.

There are currently seven manufacturers with approved PMA's for marketing test kits for detecting total antibody to anti-HBc. After March 31, 1990, submissions to FDA for approval of an anti-HBc test kit should be in the form of a product license application. By March 31, 1991, all manufacturers marketing these test kits will be required to hold both an establishment and product license for the continued marketing of these products. FDA suggests that current manufacturers with approved PMA's for marketing test kits for detecting total antibody to hepatitis B core antigen submit license applications or amendments by June 30, 1990, so that FDA has sufficient time to review the submissions. Establishment and product license applications should be sent to the Food and Drug Administration, Division of Product Certification (HFB–240), 8800 Rockville Pike, Bethesda, MD 20892. The agency intends to assist the manufacturer in the transition from approved PMA's to licensed biologics wherever possible. Already approved PMA's may serve as part of the license application, and the manufacturer will not be required to resubmit the information included in the PMA. FDA may request from manufacturers additional information, including a summary detailing production methodology, raw material procurement, results of the testing of the release panel, and labeling. FDA expects manufacturers to submit a summary of clinical trials that demonstrate clinical specificity and sensitivity.

Interested persons may submit to the Dockets Management Branch written comments on the notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 12, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90–3853 Filed 2–16–90; 8:45 am]

BILLING CODE 4160–01–M

Request for Nominations for Members on Public Advisory Committees; Generic Drugs Advisory Committee

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for 13 voting members to serve on the Generic Drugs Advisory Committee in FDA's Center for Drug Evaluation and Research. Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule announcing the establishment of this committee.

DATES: Nominations should be received on or before March 22, 1990.

ADDRESSES: All nominations for membership, except for consumer-nominated members, should be sent to Jack Gertzog (address below). All nominations for consumer-nominated members should be sent to Catherine P. Beck (address below).

FOR FURTHER INFORMATION CONTACT:

Regarding all nominations for membership, except for consumer-nominated members: Jack Gertzog, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

Regarding all nominations for consumer-nominated members: Catherine P. Beck, Office of Consumer Affairs (HFE–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5006.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for 13 members on the Generic Drug Advisory Committee. The function of the committee is to give advice on scientific and technical issues concerning the safety and effectiveness of human generic drug products for use in the treatment of a broad spectrum of human diseases and make appropriate recommendations to the Secretary of Health and Human Services (the Secretary), the Assistant Secretary for Health, the Commissioner of Food and Drugs, and the Director of the Center for Drug Evaluation and Research. The committee may also review agency sponsored intramural and extramural biomedical research programs in support of FDA's generic drugs regulatory responsibilities.

Persons nominated for membership shall have adequately diversified experience appropriate to the work of the committee in such fields as pharmaceutical manufacturing, clinical pharmacology, pharmacokinetics, bioavailability and bioequivalence research, the design and evaluation of clinical trails, laboratory analytical techniques, pharmaceutical chemistry, physicochemistry, biochemistry, biostatistics, and related biomedical and pharmacological specialities. The committee may include one technically qualified member, selected by the Secretary, who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons. The term of office is 4 years, except that initial appointments will be staggered to permit an orderly rotation of membership.

Interested persons may nominate one or more qualified persons for membership or the advisory committee. Nominations shall state that the nominee is willing to serve as a member of the advisory committee and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts to permit evaluation of possible sources of conflict of interest.

FDA has special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female, minority, or physically handicapped candidates.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. App. 2) and 21 CFR part 14, relating to advisory committees.

Dated: February 9, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90–3849 Filed 2–16–90; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 90E-0022]

Determination of Regulatory Review Period for Purposes of Patent Extension; Diprivan®

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Diprivan® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy E. Pirt, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approved phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Diprivan®. Diprivan® (propofol) is indicated as an IV anesthetic agent that can be used for both induction and/or maintenance of anesthesia as part of a balanced anesthetic technique for inpatient and outpatient surgery. Subsequent to this approval, the Patent and Trade Mark Office received a patent term restoration application for Diprivan® (U.S. Patent No. 4,056,635) from Imperial Chemical Industries, Ltd., and requested FDA's assistance in determining the patent's eligibility for patent term restoration. FDA, in a letter dated January 12, 1990, advised the Patent and Trade Mark Office that the human drug product had undergone a regulatory review period. The letter also stated that the active ingredient, propofol, represented the first permitted commercial marketing or use. Shortly thereafter, the Patent and Trade Mark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Diprivan® is 2,138 days. Of this time, 979 days occurred during the testing phase of the regulatory review period, while 1,159 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* November 27, 1983. FDA has verified the applicant's claims that November 27, 1989, is the date the investigational new drug application became effective.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal, Food, Drug, and Cosmetic Act: August 1, 1986.* FDA has verified the applicant's claims that the new drug application (NDA) was filed on August 1, 1986.

3. *The date the application was approved:* October 2, 1989. FDA has verified the applicant's claim that NDA 19-627 was approved on October 2, 1989.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trade Mark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 2 years of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before April 23, 1990, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before August 20, 1990, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 13, 1990.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 90-3854 Filed 2-16-90; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[OPH-014-N]

Medicare Program; Updated HMO Qualification Determinations

AGENCY: Health Care Financing Administrative (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice sets forth the names, addresses, dates of qualification, and service areas or expanded service areas of entities determined to be Federally qualified health maintenance organizations during the period November 1988 through December 1989.

FOR FURTHER INFORMATION CONTACT: Office of Qualification, Office of Prepaid Health Care, Health Care Financing Administration, Room 4336 Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201, (202) 245-0779.

SUPPLEMENTARY INFORMATION: Regulations at 42 CFR 417.144(e) and 42 417.163 (c) and (d), promulgated under Title XIII of the Public Health Service Act (the Act) (42 U.S.C. 300e), require publication of certain determinations relating to the Federal qualification of health maintenance organizations (HMOs). There are three categories of qualified HMOs: operational, transitionally qualified, and pre-

operational (see 42 CFR 417.141 for definitions of these terms).

The Office of Prepaid Health Care, HCFA, has determined that the following entities are operational qualified HMOs under section 1310(d) of the Act (42 U.S.C. 300e-9(d)):

1. *TakeCare Corporation (TakeCare)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 2101 Webster Street, Oakland, California 94659. TakeCare Corporation, a for-profit entity, agreed to purchase the assets and assume the liabilities of the not-for-profit TakeCare Corporation, a Federally qualified HMO. Subsequently, the for-profit TakeCare was approved for Federal qualification and the Federal qualification of the former not-for-profit TakeCare Corporation, was voluntarily relinquished. Service areas are unchanged.

Fresno, California:
- Fresno County:
  - 93606
  - 93607
  - 93609
  - 93612
  - 93625
  - 93626
  - 93630
  - 93631
  - 93642
  - 93648
  - 93650
  - 93654
  - 93657
  - 93701 thru 93799
- Madera and San Luis Obispo Counties:
  - 93442
  - 93637
  - 93638

Los Angeles, California:
- Riverside County:
  - 91719
  - 91720
  - 91752
  - 91760
  - 92330
  - 92503
  - 92505
- San Bernardino County:
  - 91701
  - 91709
  - 91710
  - 91730
  - 91739
  - 91743
  - 91761
  - 91763
  - 91764
  - 91786
- Ventura County:
  - 91320
  - 91359 thru 91363
  - 93062 thru 93065

Modesto, California:
- Modesto County:
  - 94511
  - 94513
  - 94514
  - 94550
  - 94561
  - 95202 thru 95207
  - 95209
  - 95210
  - 95212
  - 95220
  - 95227
  - 95230
  - 95231
  - 95236
  - 95237
  - 95240
  - 95301
  - 95303
  - 95307
  - 95312
  - 95313
  - 95315
  - 95316
  - 95319
  - 95320
  - 95322 thru 95324
  - 95326
  - 95328
  - 95330
  - 95331
  - 95334
  - 95336
  - 95342
  - 95350 thru 95356
  - 95360
  - 95361
  - 95363
  - 95366 thru 95368
  - 95374
  - 95376
  - 95380
  - 95384 thru 95388
  - 95641
  - 95680
  - 95686
  - 95690

Oakland, California:
- Lake County:
  - 95422 thru 95424
  - 95426
  - 95435
  - 95443
  - 95451
  - 95453
  - 95457
  - 95458
  - 95461
  - 95464
  - 95485
  - 95493
- Napa County:
  - 94515
  - 94558
  - 94559
  - 94562
  - 94567
  - 94573
  - 94574
  - 94576
  - 94599
- Solano County:
  - 94510
  - 94512
  - 94533
  - 94535
  - 94571
  - 94585
  - 94590 thru 94592
  - 95620
  - 95625
  - 95688

Sacramento, California:
- Placer and Stutter Counties:
  - 95603
  - 95650
  - 95668
  - 95677
  - 95678
- Sacamento County:
  - 95608
  - 95610
  - 95615
  - 95624
  - 95626
  - 95628
  - 95630
  - 95632
  - 95638
  - 95641
  - 95652
  - 95655
  - 95660
  - 95662
  - 95670
  - 95673
  - 95680
  - 95683
  - 95690
  - 95693
  - 95801 thru 95899
- Yolo County:
  - 95606
  - 95612
  - 95616
  - 95645
  - 95691
  - 95694
  - 95695

San Francisco, California:
- Alameda County:
  - 94563 thru 94566
  - 94568 thru 94570
  - 94572
  - 94577 thru 94580
  - 94583
  - 94587
  - 94595 thru 94598
  - 94601 thru 94666
  - 94701 thru 94799
  - 94801 thru 94899
- Contra Costa County:
  - 94501
  - 94507
  - 94509
  - 94516 thru 94526
  - 94528
  - 94530
  - 94536 thru 94547
  - 94549
  - 94550
  - 94553
  - 94556
  - 94560
- Marin County:
  - 94901 thru 94920
  - 94924
  - 94925
  - 94929
  - 94930
  - 94933 thru 94950
  - 94956 thru 94971
  - 94973

Merced County:
95301
95303
95312
95315
95322
95324
95334
95342
95374
95388
San Francisco City and County:
94101 thru 94199
San Mateo County:
94002
94005
94010
94014 thru 94021
94025
94030
94037
94038
94044
94060 thru 94066
94070
94074
94080
94401 thru 94449
Santa Clara County:
94022
94035
94040 thru 94043
94086 thru 94089
95002
95008
95014
95020
95030
95035
95037
95046
95050 thru 95055
95070
95101 thru 95199
95301 thru 95306
Sonoma County:
94922
94923
94928
94952
94972
95401 thru 95406
95419
95430
95431
95436
95439
95442
95452
95462
95465
95472
95476
95492

Santa Cruz, California:
Santa Cruz County:
95003
95005 thru 95007
95010
95017 thru 95019
95041
95060 thru 95066
95073
95076

Date of qualification: November 9, 1988.

2. *Lovelace Health Plan, Inc., (LHP)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(A) of the Act), First National Bank Building East, P.O. Box 27107, Albuquerque, New Mexico 87125–7107. LHP was Federally qualified as two regional components. LHP's Federally qualified service area for the Santa Fe, New Mexico regional component consists of Los Alamos and Santa Fe Counties, and the following zip codes in Rio Arriba County, New Mexico:

Rio Arriba County:
85711
87522
87532
87533
87537
87566
87578

LHP's Federally qualified service area for the Albuquerque, New Mexico, regional component consists of Bernalillo, Sandoval, Torrance, and Valencia Counties, New Mexico by the following zip codes:

Bernalillo County:
87008
87059
87101 thru 87125
87174
87185
87190 thru 87192
87194 thru 87198
Sandoval County:
87004
87041
87048
Torrance County:
87031
87035
Valencia County:
87002

Date of qualification: November 9, 1988.

3. *FHP, Inc. (FHP)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 9900 Talbert Avenue, Fountain Valley, California 92708. FHP's previous Federally qualified service area for its regional component at Los Angeles, California was expanded into the following zip codes in Los Angeles and Ventura Counties, California:

Los Angeles County:
91301 thru 91304
91306
91307
91311
91316
91324 thru 91326
91331
91335
91340
91342 thru 91345
91356
91364
91367
91406
91439
Ventura County:
91320
91360 thru 91362

Date of qualification: November 22, 1988.

4. *HMO Minnesota, Inc. (HMOM)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 3535 Blue Cross Road, P.O. Box 64179, St. Paul, Minnesota 55164. HOMO's previous Federally qualified service area at St. Paul, Minnesota was expanded into Carleton and St. Louis Counties, Minnesota. The expanded service area also includes the following zip codes in Koochiching and Lake Counties, Minnesota:

Koochiching County:
56627
56649
56653
56654
56668
56669
56679
Lake County:
56603
56796

Date of qualification: December 5, 1988.

5. *HMO Colorado, Inc. (HMOC)* (Individual Practice Association Model, see section 1302(5) and 1310(b)(2)(A) of the Act), 700 Broadway, Suite 712, Denver, Colorado 80203. HMOC's previous Federally qualified service area for its regional component at Denver, Colorado was expanded into Larimer and Weld Counties, Colorado. HMOC's previous Federally qualified service area for its regional component at Colorado Springs, Colorado was also expanded into Crowley, Fremont, Huerfano, and Pueblo Counties, Colorado.

Date of qualification: December 28, 1988.

6. *Mohawk Valley Physicians', Inc. (MVP)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 108 Union Street, Schenectady, New York 12305. MVP's Federally qualified service area is Dutchess County, New York.

Date of qualification: January 17, 1989.

7. *PacifiCare of California (PCCF)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 5995 Plaza Drive, Cypress, California 90630–5028. PCC's previous Federally qualified service areas for its four regional components at Los Angeles, Riverside, San Bernardino, and San Diego, California, were expanded into the following zip codes:

Los Angeles County:
90609
91500
91756

92656
93551
Riverside County:
92230
92355
San Bernardino County:
92336
92339
92416
San Diego County:
92009
92019
92042
92130

Date of qualification: January 30, 1989.

8. *Texas Health Plans, Inc. (THP)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 8303 MoPac, Suite 450, Austin, Texas 78759–8370. THP's previous Federally qualified service area at Austin, Texas, was expanded into Bell, Brazos, Burleson, Coryell, Falls, McLennan, Milam, and Robertson Counties, Texas. The expanded service area also includes the zip codes listed in the following counties:

Bosque County:
76634
76637
76689
Grimes County:
77830
77831
77861
Hamilton County:
76531
Lampassas County:
76539
76550
Madison County
77872

Date of qualification: January 30, 1989.

9. *PacifiCare of Oregon (PCO)* (Individual Practice Assocation Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 7360 S.W. Hunziker Road, Suite 200, Tigard, Oregon 97223–8230. PCO's previous Federally qualified service area for its regional component at Portland, Oregon was expanded into Columbia County, Oregon, by the following zip codes:

Columbia County:
97051
97053

Date of qualification: March 2, 1989.

10. *HMO of New Jersey, Inc. (HMONJ)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 300 Harper Drive, Moorestown, New Jersey 08057. HMONJ's previous Federally qualified service area for its regional component at Moorestown, New Jersey was expanded into Atlantic, Cape May, and Cumberland Counties, New Jersey.

Date of qualification: April 6, 1989.

11. *FHP, Inc. (FHP)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 9900 Talbert Avenue, Fountain Valley, California 92708. FHP's previous Federally qualified service area for its regional component at Los Angeles, California was expanded into the following zip codes in Los Angeles County, California:

Los Angeles County:
91001
91024
91101
91103 thru 91107

Date of qualification: April 27, 1989.

12. *Michael Reese Health Plan, Inc. (MRHP)* (Staff Model, see section 1310(b)(1) of the Act), 2545 South King Drive, Chicago, Illinois 60616. MRHP's previous Federally qualified service area at Chicago, Illinois was expanded into the following zip codes of Lake County, Illinois:

Lake County:
60015
60035
60037
60040
60044
60047
60048
60060
60061
60064
60069
60088
60089

Date of qualification: May 22, 1989.

13. *Group Health Northwest (GHN)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), West 1500 Fourth Street, Spokane, Washington 99204. GHN was approved for Federal qualification of its regional component in the Tri-Cities/Yakima area. GHN's service area for its Yakima regional component is composed of Benton, Franklin, and Yakima Counties, Washington.

Date of qualification: May 23, 1989.

14. *HMO Minnesota, Inc. (HMOM)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 3535 Blue Cross Road, P.O. Box 64179, St. Paul, Minnesota 55164. HMOM's previous Federally qualified service area at St. Paul, Minnesota was expanded into Cass, Crow Wing, Dodge, Faribault, Fillmore, Freeborn, Mower, and Olmsted Counties, Minnesota.

Date of qualification: June 19, 1989.

15. *Humana Medical Plan, Inc. (HMP)* (Individual Practice Association model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 100 West Lucerne Circle, Suite 401, Orlando, Florida 32801. HMP was approved for Federal qualification of its regional component at Orlando, Florida. HMP's Federally qualified service area for the regional component is composed of Orange, Osceola, and Seminole Counties, Florida.

Date of qualification: June 23, 1989.

16. *FHP, Inc. (FHP)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 9900 Talbert Avenue, Fountain Valley, California 92708. FHP's previous Federally qualified service area for its regional component at Phoenix, Arizona was expanded into the following zip codes in Pima and Pinal Counties, Arizona:

Pima County:
85614
85629
85650
85653
85654
85701
85704 thru 85708
85710 thru 85716
85718
85719
85721
85730
85737
85741
85743
85745
85746
85748
85749
Pinal County
85221 thru 85223
85231
85241
85245

Date of qualification: June 30, 1989.

17. *Chicago HMO, Ltd. (CHMO)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 540 North Lasalle Street, Chicago, Illinois 60610. CHMO's previous Federally qualified service area at Chicago, Illinois was expanded into Kane, McHenry, and Will Counties, Illinois.

Date of qualification: July 13, 1989.

18. *Partners Health Plan of Southern California (PHPSC)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 303 E. Vanderbilt Way, San Bernardino, California 92408. PHPSC's previous Federally qualified service area at San Bernardino, California was expanded into Los Angeles County and the following zip codes in Riverside County, California:

Riverside County:
92201
92202
92210

92234
92236
92239
92240
92253
92254
92258
92260 thru 92264
92274
92276
92282

Date of qualification: July 17, 1989.

19. *Health Options, Inc. (HO)* (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 3900 N.W. 79th Avenue, No. 475, Miami, Florida 33166. HO's previous Federally qualified service area in Miami was expanded into Palm Beach County, Florida.

Date of qualification: July 28, 1989.

20. *Bridgeway Plan for Health (BPH)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 1700 California Street, Suite 500, San Francisco, California 94109. On February 24, 1989 two wholly owned subsidiaries of Northern California Health Center were merged—Institute for Preventive Medicine, Inc. (IPM), a for-profit Federally qualified HMO and Northern California Health Plan (formerly Children's Hospital Health Plan), a Federally eligible for-profit competitive medical plan. IPM changed its name to Bridgeway Plan for Health. BPH's previous Federally qualified service area was expanded to include San Francisco County and the following zip codes in Marin and San Mateo Counties, California:

Marin County:
94920
94925
94939
94941
94965
San Mateo County:
94005
94014 thru 94017
94030
94044
94066
94080

Date of qualification: August 1, 1989.

21. *U.S. Healthcare, Inc. (USH)* (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 2 Trap Falls Road, Shelton, Connecticut 06484. USH's previous Federally qualified service area was expanded into Hartford and Litchfield Counties, Connecticut.

Date of qualification: August 17, 1989.

22. *Capitol Health Care, Inc. (CHC)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), P.O. Box 12625, Salem, Oregon 97309. CHC's previous Federally qualified service area in Salem was expanded into Lane and Yamhill Counties, Oregon.

Date of qualification: August 25, 1989.

23. *Missouri HMO, Inc. (MHMO)* (Direct Contract Model, see section 1310(b)(2)(b) of the Act), 4444 Forest Park, P.O. Box 66828, St. Louis, Missouri 63166–6828. MHMO's Federally qualified service area for *Missouri* is Franklin, Jefferson, St. Charles, and St. Louis Counties, and the following zip codes in Gasconade County:

Gasconade County:
63091
65014
65036
65041
65061
65062
65066
65068

MHMO's Federally qualified service area for *Illinois is Madison and St. Clair Counties.*

Date of qualification: August 25, 1989.

24. *PruCare of New York (PNW)* (Direct Contract Model, see section 1310(b)(2)(B) of the Act), One Campus Drive, Parsippany, New Jersey 07054. PNW's Federally qualified service area consists of the following counties: Bronx, Dutchess, Kings, Nassau, New York (Manhattan), Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Ulster, and Weschester, New York.

Date of qualification: September 22, 1989.

25. *Prudential Health Care Plan of Connecticut, Inc. (PHCPC)* (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 56 North Livingston Avenue, Roseland, New Jersey 07068. PHCPC's Federally qualified service area consits of Fairfield and New Haven Counties; and the following zip code in New Milford Town, Litchfield County, Connecticut.

Litchfield County:
06776

Date of qualification: September 22, 1989.

26. *Prudential Health Care Plan, Inc. (PHCP)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 6600 North Andrews Avenue, Suite 281, Ft. Lauderdale, Florida 33309. PHCP's previous Federally qualifed service area was expanded as a regional component into Broward, Dade, and Palm Beach Counties in south Florida.

Date of qualification: September 22, 1989.

27. *PHP, Inc. (PHP)* (Individual Practice Assocation Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 1225 19th Street N.W., Suite 650, Washington, D.C. 20036. The previous Federally qualified service area of PHP of Fountain Valley, California was expanded into the Glendale and Pomona Valley areas. This includes Los Angeles and San Bernardino Counties, California by the following zip codes:

Los Angeles County:
90041
91011
91020
91040
91042
91046
91201 thru 91208
91214
91711
91750
91766 thru 91768
San Bernardino County:
91701
91709
91710
91730
91739
91743
91761 thru 91764
91766
91786

Date of qualification: September 29, 1989.

28. *CIGNA Healthplan of Ohio, Inc. (CIGNA)* (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 445 Hutchinson Avenue, Suite 900, Columbus, Ohio 43235. CIGNA's previous Fedeally qualified service area was expanded into Muskingum and Perry Counties, Ohio.

Date of qualification: October 23, 1989.

29. *PacifiCare, Inc.* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), P.O. Box 6006, Cypress, California 90630–0006. PacifiCare's previous Federally qualified service area was expanded as a regional component in the Apple Valley/Victorville regional component in San Bernardino County, California by the following zip codes:

San Bernardino County:
92301
92307
92308
92342
92345
92356
92368
92371
92392 thru 92394
92407

Date of qualification: December 11, 1989.

A cumulative list and additional information about Federally qualified HMOs may be obtained by writing to the following address:

Health Care Financing Administration, Office of Prepaid Health Care, Room 4360, Cohen Building, 330 Independence Avenue, SW, Washington, DC 20201.

The list also may be obtained by visiting that office between the hours of

8:30 a.m. and 4:30 p.m. Monday through Friday, except for Federal holidays. Interested persons should contact the Office of Prepaid Health Care for an appointment (202) 245–0815.

((42 U.S.C. 300e) Title XIII of the Public Health Service Act)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; 13.774, Medicare-Supplementary Medical Insurance)

Dated: January 22, 1990.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 90–3807 Filed 2–16–90; 8:45 am]

BILLING CODE 4120–01–M

Public Health Service

Advisory Committee on the National Institutes of Health; Meeting

As announced at the January 29, 1990, meeting of the Advisory Committee on the National Institutes of Health and in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the Advisory Committee on the National Institutes of Health (NIH) will meet on February 26, 1990. The meeting is open to the public and will be held in the Stonehenge Conference Room, 6th Floor of the Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, from 3 p.m. to 6 p.m.

The committee will continue to discuss ways of strengthening the position of the NIH Director.

Dated: February 13, 1990.

James O. Mason,

Assistant Secretary for Health and Acting Surgeon General.

[FR Doc. 90–3806 Filed 2–16–90; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement and related forms may be obtained by contacting the Office's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Office's Clearance Officer at the number give below and to the Office of Management and Budget Paperwork Reduction Project (1084–0010), Washington, DC 20503, telephone (202) 395–7340.

Titles: Claim For Relocation Payments-Residential. Claim for Relocation Payments-Nonresidential.

OMB approval number: 1084–0010.

Abstract: The information on the application will be used to determine the amount of money, if any, owed to persons or businesses displaced by Federal acquisition of their real property.

Bureau form number: Previously, Form DI–380. Revised, DI–381, DI–382

Frequency: On occasion.

Description of respondents: Individuals and businesses who are displaced because of Federal acquisition of their real property.

Estimated completion time: O.44 hours.

Annual responses: 400.

Annual Burden Hours: 176.

Bureau clearance officer: John Strylowski (302) 343–5345.

Dated: January 29, 1990.

William A. Clinkscales,

Director of Acquisition, Construction and Property Management.

[FR Doc. 90–3829 Filed 2–16–90; 8:45 am]

BILLING CODE 4310–RF–M

Bureau of Land Management

[NV–930–00–4333–11; NV5–90–12]

Nevada; Temporary Closure of Certain Public Lands in Las Vegas District for Management of Inaugural 1990 HDRA NISSAN 400 Off-Highway Vehicle (OHV) Race.

ACTION: Temporary closure of certain Public Lands in the Clark, County, Nevada, on and adjacent to the 1990 NISSAN 400 race course on March 3, 1990. Access will be limited to race officials, entrants, law-enforcement and emergency personnel, licensed permittees and right-of-way grantees.

SUPPLEMENTARY INFORMATION: Certain public lands in the Las Vegas District, Clark County, Nevada will be temporarily closed to public access from 0001 hours, March 3, 1990, to 2400 hours, March 4, 1990, to protect persons, property, and public land resources on and adjacent to the 1990 NISSAN 400 OHV race course. The Las Vegas District Manager is the authorized officer for the 1990 NISSAN 400 OHV race and permit number (NV5–90–12). These temporary closures and restrictions are made pursuant to 43 CFR Part 8364. The public lands to be closed or restricted are those lands adjacent to and including roads, trails and washes identified as the 1990 NISSAN 400 OHV race course.

The following public lands restricted or closed are described as: the Apex area; T19S., R62E., all of sections 1, 11, 12, 13, 14, 15, 21, 22, 23, 24, 26 and 27. The Nellis Dunes area; T19S., R63E., all of sections 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, and 18. The arrolime area; T18S., R63E., all of sections, 5, 8, 17, 18, 19, 29, 30, and 31. The Dry Lake area; T19S., R64E., all of sections 4, 5, 7, 8, 18; T18S., R64E., all of sections 3, 10, 11, 12, 14, 15, 22, 27, 34; and T17S., R64E., all of sections 11, 12, 14, 15, 22, 27, and 34. The North Muddy area; T16S., R66E., all of sections 6, and 7. The California Wash area; T16S., R65E., all of sections 13, 21, 22, 23, 24, 26, 27, 28, 29, 31, 32, 33, 34, 35; T15S., R66E., all of sections 19, 30, 31; and T17S., R65E., all of sections 10, and 11. The Piute Wash area; T16S., R64E., all of sections 5, 8, 17, 18, 36; T15S., R64E., all of sections 22, 23, 24, 26, 27, 32, 33, 34, and 35. The Arrow Canyon area; T16S., R63E., all of sections 24, 25, 35, 36; and T17S., R63E., all of sections 11, 12, 14, 23, 26, 27, 32, 33, and 34. The Ute area, T15S., R65E., all of sections 19, 20, 21, 22, 23, 24, 25, and 26.

The above legal land descriptions are for public lands within Clark, County, Nevada. A map showing specific areas closed to public access is available from the following BLM office: the Las Vegas District Office, 4765 Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126, (702) 646–8800.

Any person who fails to comply with this closure order issued under 43 CFR Part 8364 may be subject to the penalties provided in 43 CFR 8360.7.

Dated: February 8, 1990.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 90–3754 Filed 2–16–90; 8:45 am]

BILLING CODE 4310–HC–M

[(WY–920–08–4120–11); WYW119000]

Invitation for Coal Exploration License; Cheyenne, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Invitation for coal exploration license.

SUMMARY: Bridger Coal Company hereby invites all interested parties to

participate on a pro rata cost sharing basis in its coal exploration program concerning federally owned coal underlying the following described land in Sweetwater County, Wyoming.

T. 21 N., R. 101 W., 6th P.M., WY,
Sec. 4: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 6: Lots 1, 2, S½NE¼, SE¼;
Sec. 8: All;
Sec. 10: W½, SE¼;
Sec. 14: All;
Sec. 24: NW¼.
T. 22 N., R. 101 W., 6th P.M., WY
Sec. 28: All;
Sec. 30: Lots 3, 4, E½SW¼, SE¼;
Sec. 32: All;
Sec. 34: All.
Containing 5,118.20 acres

All of the coal in the above land consists of unleased Federal coal, within the Powder River Basin known coal leasing area. The purpose of the exploration is to determine coal quality parameters.

ADDRESSES: A detailed description of the proposed drilling program is available for review during normal business hours in the following offices (under serial number WYW119000): Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming 82003; and Bureau of Land Management, P.O. Box 1869, Highway 191 North, Rock Springs, Wyoming 82902–1969.

SUPPLEMENTARY INFORMATION: This notice of invitation will be published in a newspaper once each week for two consecutive weeks beginning the week of February 12, 1990, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and to Bridger Coal Company no later than 30 days after publication of this invitation in the **Federal Register**. The written notice should be sent to the following addresses: Bridger Coal Company, P.O. Box 2066, Rock Springs, Wyoming 82902–2066, and the Bureau of Land Management, Wyoming State Office, Branch of Mining Law and Solid Minerals, P.O. Box 1828, Cheyenne, Wyoming 82003–1828.

The foregoing is published in the **Federal Register** pursuant to Title 43 Code of Federal Regulations, § 3410.2–1(c)(1).

F. William Eikenberry,
State Director.

[FR Doc. 90–3756 Filed 2–16–90; 8:45 am]
BILLING CODE 4120–11–M

[NV–930–00–4214–10; N–48578]

Amendment to Withdrawal Application and Opportunity for Public Meeting; Nevada

February 8, 1990.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The National Park Service filed an application to amend a withdrawal proposal for 2.5 acres to include an additional 77.5 acres. The entire 80 acres is currently withdrawn by the U.S. Forest Service for use as an administrative site. The National Park Service proposes to use the land for the permanent administrative and management headquarters for the Great Basin National Park. The proposal, if approved, will result in a transfer of jurisdiction from the U.S. Forest Service to the National Park Service. This notice provides an opportunity for a public meeting and public comment on the amended portion of the application.

DATES: Comments or requests for a public meeting should be received on or before May 21, 1990.

ADDRESSES: Comments and meeting requests should be sent to the Nevada State Director, BLM, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM Nevada State Office, 702–785–6526.

SUPPLEMENTARY INFORMATION: On January 31, 1990, a petition was approved allowing the National Park Service to file an amendment to the 2.5 acre withdrawal application N–48578 to include an additional 77.5 acres. The entire 80 acres described below are proposed for withdrawal from settlement, sale, location, and entry under the general land laws, including the mining laws, subject to valid existing rights.

Mount Diablo Meridian, Nevada

T. 13 N., R. 70 E.,
Sec. 9, E½NW¼.

The area described contains 80 acres in White Pine County. The purpose of the withdrawal is to establish and protect a permanent administrative and management headquarters site for the Great Basin National Park.

Effective on the date of publication, the additional acreage is subject to the requirements set forth in the original withdrawal application notice published on May 27, 1988, as Document 88–11964, 53 FR 19345.

Although this application is subject to the two-year segregation addressed in the original publication, the land is currently withdrawn by the U.S. Forest Service and, therefore, will not be open to entry at the end of the segregation period allowed for applications.

Any persons who desire to comment in connection with the amended application may submit their views in writing to the Nevada State Director at the address shown above within the 90-day comment period.

Robert G. Steele,
Deputy State Director, Operations.

[FR Doc. 90–3757 Filed 2–16–90; 8:45 am]
BILLING CODE 4310–HC–M

Geological Survey; Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the office of Management And Budget, Paperwork Reduction Project, Washington, DC 20503, telephone 202–395–7340.

Title: Tsunami Questionnaire
Abstract: Respondents supply information on the effects of earthquake-related tsunamis on themselves personally, buildings and their effects, other man-made structures, and coastal area. This information will be used in the study of the hazards from earthquakes and tsunamis
Bureau Form Number: 9–3014
Frequency: After each tsunami
Description of Respondents: Federal, state, and local employees; and, the general public
Estimated completion time: 0.1 hours
Annual Responses: 200 state and local governments, and individuals
Annual Burden Hours: 20 hours
Bureau clearance officer: Geraldine A. Wilson, 703–648–7309.

Dated: January 18, 1990.

Benjamin A. Morgan,
Chief Geologist.

[FR Doc. 90–3823 Filed 2–16–90; 8:45 am]
BILLING CODE 4310–31–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Establishment of the Advisory Committee of A.I.D. Malaria Vaccine Program

AGENCY: Agency for International Development (A.I.D.).

ACTION: Establishment of the Advisory Committee.

SUMMARY: The Administrator of A.I.D. has determined that it is in the public interest to establish the Advisory Committee of the A.I.D. Malaria Vaccine Program. The Committee Management Secretariat of GSA has concurred in establishment of the Committe. The objective of the committee is to provide broad senior scientific overview of the Malaria Vaccine program.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Wrin, S&T/H Room 703 SA–18, Agency for International Development, Washington, DC 20523; (703) 875–4498.

Dated: February 7, 1990.

Jan W. Miller,

Assistant General Counsel for Employee and Public Affairs.

[FR Doc. 90–3820 Filed 2–16–90; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

[I.C.C. Order No. 7 [1]]

Rerouting Traffic; Delaware and Hudson Railway Co.

To: All Delaware and Hudson Railway Company connections:

On June 20, 1988, the Delaware and Hudson Railway Company (DH) [2] filed a petition for Reorganization under Chapter 11 of the Bankruptcy Code, 11 U.S.C. 1161, *et. seq.*, in the U.S. District Court for the District of Delaware (Bankruptcy Filing No. 88–342). DH also notified the Commission that DH operations would terminate on June 23, 1988. By orders served June 22, and June 23, 1988, pursuant to the provisions of 49 U.S.C. 11125, the Commission found that DH's impeding cessation of service met the statutory criteria for directed service and authorized the New York, Susquehanna and Western Railway Corporation (NYSW) to operate the entire DH system, including service over existing trackage rights. The orders specified that there would be no Federal subsidy or compensation under 49 U.S.C. 11125(b)(5).

The statutory authority for directed service under 49 U.S.C. 11125 was to expire on February 13, 1989.[3] However, on February 10, 1989, the Commission decided Service Order No. 1506, which authorized NYSW to operate the DH under 49 U.S.C. 11123(a) for 30 days while the Commission considered extension of the Section 11123(a) authority.[4] On March 14, 1989, in Supplemental Order No. 1 to Service Order No. 1506, the Commission extended NYSW's authority to operate lines of the DH for one year (March 16, 1990).

On January 22, and February 1, 1990, NYSW filed letters with the Commission giving notice that NYSW would be unable to continue service on DH beyond February 14, 1990, due to the termination of its subsidy agreements. The letters further noted that the Trustee was considering a bid by Canadian Pacific Limited (CP Rail) to acquire the entire DH.

On February 9, 1990, the Trustee sought and obtained from the Bankruptcy Court an order approving the sale of DH to CP Rail. The Trustee also obtained a commitment from CP Rail to subsidize interim operations on the DH until the sale is consummated.

On February 13, 1990, the Trustee notified the Commission that CP Rail had withdrawn its offer to purchase the DH. On February 14, 1990, the Trustee notified the Commission of his inability immediately to resume operations. The Trustee also advised that he did not object to the application of the NYSW, et al., to continue to serve portions of the DH lines. Further, the Trustee supported the issuance of this rerouting authority covering overhead traffic. Appropriate embargoes have been issued by the NYSW.

Essentially three classifications of traffic are affected by the embargo: (1) local traffic, which originates or terminates on the embargoed lines; (2) overhead traffic, which is received in interchange from connecting carriers for movement over the receiving carriers' lines and delivery to other carriers for further transportation movement, and (3) the movement of shipper owned and foreign line empty cars.

The Order here is intended to relieve congestion and restore prompt service and the expeditious movement of traffic in interstate commerce. See 49 U.S.C. 11124. As quickly as service can be restored over DH lines, the order will be amended to allow the utilization of shipper specified routings.

It is the opinion of the Commission that the DH presently is unable to transport all traffic routed over its lines; that the interests of connecting carriers, and affected shippers and States, require this authority; that this authority will not constitute an undue burden for any originating or connecting carrier; and that this matter is considered to be outside the scope of a single carrier action, as provided by Ex Parte No. 376, *Rerouting of Traffic*, 364 I.C.C. 827, thereby making this action by the Commission necessary.

It is ordered:

(a) *Rerouting traffic.* DH is unable to transport promptly all traffic over its lines due to embargo. Its direct connections are authorized to reroute any overhead traffic routed over DH with the exception of:

1. Traffic routed between Buffalo and Binghamton, N.Y.
2. Traffic routed between Binghamton and Cooperstown Junction, N.Y.; and
3. Traffic routed between Voorheesville and Rouses Point, N.Y.

Traffic necessarily diverted by authority of this order shall be rerouted to preserve as nearly as possible the participation and revenues of other carriers as provided in the original routing, and must be returned to the original routing at the first opportunity. All traffic accepted for movement by this routing must be rerouted in accordance with this order and will not be subject to diversion or other charges beyond those covered by paragraph (d) of this order. The billing covering all such rerouted cars shall carry a

[1] Contemporaneously, Supplement No. 2 to Service Order No. 1506, is being issued authorizing service over certain DH line pursuant to 49 U.S.C. 11123(a).

[2] The DH is a Northeastern regional freight railroad which operates over 1,581 miles of track (569 miles of owned lines and 1,012 miles of trackage rights). DH's service area extends from the Canadian border near Rouses Point, N.Y., southward to Potomac Yard near Washington, DC, and from Albany, NY, westward to Buffalo, NY.

[3] Directed service on DH was docketed, Finance Docket No. 31295, *Service on Delaware and Hudson Railway Company*, and Directed Service Order No. 1504, *The New York, Susquehanna and Western Railway Corporation—Directed Service—The Delaware and Hudson Railway Company, Debtor (Francis P. DiCello, Trustee).*

[4] Section 11123(a) of the Interstate Commerce Act authorizes the Commission to act in emergency situations where it finds that a "failure in traffic movement exists which creates an emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States." The initial period for the service order may not exceed 30 days and the order may be extended only if the full Commission, after a hearing, certifies the continued existence of the transportation emergency.

reference to this order, as authority for the rerouting.

(b) *Notification to shippers.* Each originating carrier, accepting traffic to be rerouted in accordance with this order, shall notify each shipper at the time each shipment is accepted and, to the best of its ability, shall furnish to such shipper the alternative routing.

(c) *Concurrence of receiving roads required.* The railroad rerouting cars under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered. Further, originating carriers are required to verify that the carrier, to effect the rerouting covered by this order, has the concurrence of a carrier to which the traffic may be diverted.

(d) Since the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted shall be rates which were applicable at the time of shipping and as originally routed, or which are in effect currently over the DH.

(e) In executing the provisions of this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to the traffic rerouted by authority of this order. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between authorized carriers; or upon failure of the carriers to so agree, divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12:01 a.m., February 15, 1990.

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 16, 1990, unless otherwise modified, amended or vacated by order of this Commission.

This action is taken pursuant to the authority of 49 U.S.C. 11124.

This order shall be served upon the DH, the Federal Railroad Administration, the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association.

A copy of this order shall be filed with the Director, Office of the Federal Register.

Decided at Washington, DC, February 14, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley and Emmett. Vice Chairman Phillips and Commissioner Emmett did not participate.

Noreta R. McGee,

Secretary.

[FR Doc. 90-3939 Filed 2-16-90; 8:45 am]

BILLING CODE 7035-01-M

[Service Order No. 1506, Supplemental Order No. 2]

New York, Susquehanna & Western Railway Corp.; Lackawanna Valley Railroad Corp.; North Shore Railroad Co.; Authorized To Operate Tracks of Delaware & Hudson Railway Co.; Debtor (Francis P. Dicello, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1506, Supplemental Order No. 2.

SUMMARY: This supplemental order amends Service Order No. 1506, by authorizing The New York, Susquehanna and Western Railway Company (NYSW), Lackawanna Valley Railroad Corporation (LVAL), and North Shore Railroad Company (NSHR) to operate without Federal subsidy or compensation over certain tracks of the Delaware and Hudson Railway Company (DH) from 12:01 a.m. on February 15 through 11:59 p.m. on February 16, 1990. This order replaces our prior order under 49 U.S.C. 11123(a), that authorized NYSW to operate over the entire DH system. Under 49 U.S.C. 11123(a), the Commission may issue a service order when it finds that a *"failure in traffic movement exists which creates an emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States,"* (emphasis added). We are contemporaneously issuing an order in I.C.C. Order No. 7, *Rerouting Traffic—All Delaware and Hudson Railway Company Connections.*

DATES: *Effective Date:* This order shall become effective at 12:01 a.m., February 15, 1990, and shall remain in effect until 11:59 p.m., February 16, 1990.

Hearing Date: Hearing on all matters concerned with further service orders in this proceeding will be held at 9 a.m., February 16, 1990.

ADDRESS: Comments regarding the revision of this order may be sent or FAXED to: Bernard Gaillard, Director, Office of Compliance and Consumer Assistance, Room 4112, Interstate Commerce Commission, Washington, DC 20423. FAX Number: (202) 275-1201.

FOR FURTHER INFORMATION CONTACT: Melvin F. Clemens, Jr., (202) 275-1559 or Bernard Gaillard, (202) 275-7849 [TDD for hearing impaired: (202) 275-1721]

SUPPLEMENTARY INFORMATION: On June 20, 1988, the DH [1] filed a petition for Reorganization under Chapter 11 of the Bankruptcy Code, 11 U.S.C. 1161, *et seq.*, in the U.S. District Court for the District of Delaware (Bankruptcy Filing No. 88-342). DH also notified the Commission that DH operations would terminate on June 23, 1988. By orders served June 22, and June 23, 1988, respectively, pursuant to the provisions of 49 U.S.C. 11125, the Commission found that DH's impending cessation of service met the statutory criteria for directed service and authorized the New York, Susquehanna and Western Railway Corporation (NYSW) to operate the entire DH system, including service over existing trackage rights. The orders specified that there would be no Federal subsidy or compensation under 49 U.S.C. 11125(b)(5).

The statutory authority for directed service under 49 U.S.C. 11125 was to expire on February 13, 1989.[2] However, on February 10, 1989, the Commission decided Service Order No. 1506, which permitted NYSW to operate the DH under 49 U.S.C. 11123(a) for 30 days while the Commission considered extension of the Section 11123(a) authority.[3] On March 14, 1989, in Supplemental Order No. 1 to Service Order No. 1506, the Commission extended NYSW's authority to operate lines of the DH for one year.

On January 22, and February 1, 1990, NYSW filed letters with the Commission giving notice that NYSW would be unable to continue service on DH beyond February 14, 1990, due to the termination of its subsidy agreements. The letters further noted that the

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[1] The DH is a Northeastern regional freight railroad which consists of 1,581 miles of track [569 miles of owned lines and 1,012 miles of trackage rights). DH's service area extends from the Canadian border near Rouses Point, NY southward to Potomac Yard near Washington, DC, and from Albany, NY westward to Buffalo, NY.

[2] Directed service on DH was docketed, Finance Docket No. 31295, *Service on Delaware and Hudson Railway Company*, and Directed Service Order No. 1504, *The New York, Susquenhanna and Western Railway Corporation—Directed Service—The Delaware and Hudson Railway Company, Debtor (Francis P. Dicello, Trustee).*

[3] Section 11123(a) of the Interstate Commerce Act authorizes the Commission to act in emergency situations where it finds that a "failure in traffic movement exists creates an emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States." The initial period for the service order may not exceed 30 days and the order may be extended only if the full Commission, after a hearing, certifies the continued existence of the transportation emergency.

Trustee was considering a bid by Canadian Pacific Limited (CP Rail) to acquire the entire DH.

On February 9, 1990, the Trustee sought and obtained from the Bankruptcy Court an order approving the sale of DH to CP Rail. The Trustee also obtained a commitment from CP Rail to subsidize operations until the consummation of the sale. However, an essential component of CP Rail's offer could not be satisfied and CP Rail has withdrawn its offer.

On February 14, 1990, NYSW filed a petition with the Commission requesting a joint authority arrangement with LVAL and NSHR to operate specific segments of DH. The Trustee has also indicated today that he is unable presently to resume service on DH, and has asked that the continued authority be conditioned with a seven day notice period to the Commission and the operators that would allow the Trustee to resume operations upon such notice.

To assure continued service to shippers, the Commission will authorize the interim operations by the carriers named in Appendix A to this order, to operate specified lines of the DH for the period specified in this order.

It is the opinion of the Commission that an emergency continues to exist, affecting rail traffic to and from the Northeast and the competitive balance in the region, and that the magnitude of this emergency situation adversely affects a substantial area in the Northeastern region of the United States and the movement of traffic through major gateways to other regions of the United States and Canada. The operations of the DH should be continued temporarily by other carriers, under the provisions of 49 U.S.C. 11123, which can best provide for the continuation of essential competitive services without any cost to the Federal Government. Prior notice of this action and public procedure are impracticable and contrary to the public interest, and good cause exists for making this order effective upon less than 30 days' notice.

We find:

That a failure in traffic movement exists which creates an emergency situation of such magnitude as to have a substantial adverse effects on rail service in a substantial region of the United States.

This action will not significantly affect either the quality of the human environment or energy conservation.

It is ordered:

49 CFR 1033.1506, *The New York, Susquehanna and Western Railway Corporation—Lackawanna Valley Railroad Corporation—North Shore Railroad Company—Authorized To Operate Tracks of The Delaware & Hudson Railway Company, Debtor, (Francis P. Dicello, Trustee)*

(a) *Authority.* The railroads named above and in appendix A to this order are authorized to use those tracks, trackage rights or facilities of the DH specified in the Appendix. Railroads named in the appendix shall be responsible as follows:

1. To preserve the value of the lines associated with each operation, and to perform necessary maintenance to avoid undue deterioration of lines and facilities.

2. To resolve operational difficulties associated with authorized operations, by agreement between the affected parties. Failing agreement, such difficulties may be brought to the Commission for resolution.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates.* Because this operation by NYSW, LVAL, and NSHR is due to DH's cessation of service, the rates applicable to traffic moved by those railroads over the line segments, specified in Appendix A, shall be the rates which are applicable to traffic routed over DH, unless modified by the interim operator.

(d) *Employees.* In providing service under the authority of this emergency service order, interim operators shall comply with the requirements of 49 U.S.C. 11123(a)(3) with respect to the use of DH employees.

(e) *Compensation.* The DH, through its Trustee, has expressed its willingness to make its tracks available to permit interim service required to fulfill its common carrier obligation. For purposes of this order, compensation accruing to DH shall be on such terms as the parties may establish between themselves, or shall be subject to 49 U.S.C. 11123(b)(2). Compensation to owning carriers for continued use of DH's trackage shall be upon the terms provided in various agreements covering the line segments operated.

(f) *Costs.* Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(g) *Traffic.* In transporting traffic over these lines, all interim operators described in appendix A shall proceed even though no agreements, contracts, or arrangements now exist between them with reference to the divisions of the rates for transportation applicable to that traffic. Divisions shall be, during the time this order remains in effect, those vountarily agreed upon by and between the carriers. Should carriers fail to agree, divisions shall be those fixed by the Commission in accordance with pertinent authority conferred by the Interstate Commerce Act.

(h) *Effective date.* This order shall be effective at 12:01 a.m., February 15, 1990.

(i) *Expiration date.* The provisions of this order shall expire at 11:59 p.m. on February 16, 1990.

This action is taken under authority of 49 U.S.C. 11123(a).

This order will be served on all parties to this proceeding including those listed in our June 22, 1988 decision in Finance Docket No. 32195, as well as the Trustree in Bankruptcy and the U.S. District Court for the District of Delaware (Bankruptcy Filing No. 88–3427). This order shall also be served upon the Federal Railroad Administration, the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy of the Office of the Secretary of the Commission at Washington, DC, and by filing a copy with the Director, Office of the Federal Register.

Decided: February 14, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Laboley, and Emmett. Vice Chairman Phillips and Commissioner Emmett did not participate.

Noreta R. McGee,

Secretary.

Appendix A—DH Lines Authorized To Be Operated by Interim Operators

1. *The New York, Susquehanna and Western Railway Corporation:*

(a) Between Binghamton, NY (MP 612.75) and Cooperstown Junction, NY (MP 546.98) over DH owned lines;

(b) Between Binghamton, NY and Buffalo, NY over DH trackage rights; and

(c) Between Voorheesville, NY and Rouses Point, NY over DH owned lines.[4]

[4] This line includes Voorheesville (MP 13.0) to Kenwood Yard (MP 0.0); Kenwood Yard to Mechanicville (MP 19.0); Mechanicville (MP 469.0) to Glennville (CPF 478) (track 1); Glennville (CPF 478) to Ballston Lake (CPF 24); Schenectady (MP 486) to Glennville (CPF 480) (track 1); Glennville (CPF 480) to Ballston Lake (CPC 24); and Ballston Lake (CPC 24) to Rouses Point (MP 192). Also included would be the use of D&H yards on the line as needed, and the following branch lines: Saratoga (CPC 38) to Corinth (MP 57); and Fort Edward to Glenns Falls.

2. *Lackawanna Valley Railroad Corporation:*

(a) Between Buttonwood, PA and Scranton, PA on DH owned lines.

3. *North Shore Railroad Company:*

(a) Between South Danville, PA and Sunbury, PA over DH owned lines.

[FR Doc. 90-3936 Filed 2-16-90; 8:45 am]

BILLING CODE 7035-FR-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act; I&F Corp.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on February 2, 1990, a proposed Consent Decree in *United States* v. *I & F Corporation*, Civil Action No. C-1-88-816, was lodged with the United States District Court for the Southern District of Ohio. The proposed Consent Decree resolves a judicial enforcement action brought by the United States against I & F Corporation under the Clean Air Act for alleged violations of the Clean Air Act and the National Emission Standard for Hazardous Air Pollutants (NESHAPs) for asbestos in September of 1987, during the removal of asbestos by I & F Corporation on several projects in Cincinnati, Ohio.

The Consent Decree requires the Defendant to achieve compliance with all asbestos NESHAPs requirements, and give timely and accurate notice to the U.S. Environmental Protection Agency, of all asbestos demolition, renovation or removal operations subject to the asbestos standard. In addition, the decree requires I & F Corporation to designate a site supervisor who shall have responsibility for managing all abestos-related activities at any asbestos removal, renovation or demolition site.

Under the Consent Decree, the Defendant must demonstrate continued compliance for at least 12 months, and the Decree provides for stipulated penalties for any noncompliance. In addition, the Consent Decree provides that Defendnat is liable for a civil penalty of $56,800, to be paid in installments.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, U.S. Department of Justice, Washington, DC and should refer to *United States* v. *I & F Corporation*, D.J. #90-5-2-1-1236.

The proposed Consent Decree may be examined at the office of the United States Attorney, 220 U.S. Courthouse, 5th & Walnut Streets, Cincinnati, Ohio 45202, and at the Region V office of the U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the Consent Order may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, room 6317, Tenth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.30 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 90-3834 Filed 2-16-90; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Clean Air Act; Sermac Services Inc., et al.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on February 2, 1990, a Consent Decree in *United States* v. *Sermac Services, Inc., et al.*, Civil Action No. 86-2371-WF, was lodged with the United States District Court for the District of Massachusetts. The Consent Decree requires the Defendants, Sermac Services, Inc. and Asbestos Abatement, Inc. to pay a civil penalty of $30,000, and obligates them to implement an asbestos remedial program designed to prevent future violations of the Clean Air Act, 42 U.S.C. 7412, and National Emission Standards for Hazardous Air Pollutants (NESHAP) for asbestos, 40 CFR part 61, subpart M.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Envirommental Enforcement Section, Land and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Sermac Services, Inc. et al.*, D.J. Ref. No. 90-5-2-1-956.

The Consent Decree may be examined at the office of the United States Attorney, District of Massachusetts, 1107 J.W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109; at the Region I Office of the Environmental Protection Agency, John F. Kennedy Building, Boston, Massachusetts 02203 and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, 10th Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree can be obtained in person or by mail from the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.30 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 90-3835 Filed 2-16-80; 8:45 am]

BILLING CODE 4410-01-M

[AAG/A Order No. 38-90]

Privacy Act of 1974 as Amended by The Computer Matching and Privacy Protection Act of 1988

This notice is published in the Federal Register in accordance with the requirements of 5 U.S.C. 552a(e)(12). The Immigration and Naturalization Service (INS), Department of Justice (the source agency), proposes to participate with the Department of Education (DED) (the recipient agency) in a computer matching program. The matching program entitled "Alien Immigration Status Verification, INS/DED" will permit DED to confirm the immigration status of alien applicants for, or recipients of, assistance as authorized by title IV, section 484(a)(5), of the Higher Education Act of 1965, as amended. Title IV programs include:

The Pell Grant, Supplemental Educational Opportunity Grant, State Student Incentive Grant, Stafford Loan, PLUS (Parent Loan Program), Supplemental Loans for Students, College Work-Study, Income Contingent Loan Program, and the Perkins Loan Program.

INS will assist DED in its efforts to confirm immigration status under the authority of section 103 of the Immigration and Nationality Act. The records to be used in the match and the roles of the matching participants are described as follows:

Through the use of user identification codes and passwords, authorized persons from DED will transmit electronically to INS data from its Privacy Act system of records entitled, "Federal Student Aid Application File (18-40-0014)." The data will include the alien registration number, the first name (initial letter only) and date of birth of the alien applicant for, or recipient of,

title IV assistance. This action will initiate a search for corresponding data elements in an INS Privacy Act system of records entitled "Alien Status Verification Index (JUSTICE/INS–009)." Where there is a match of records, the system will provide to DED the immigration status code and employment eligibility code of the alien applicant or recipient. In accordance with 5 U.S.C. 552a(p), DED will independently verify, and provide the alien applicant or recipient with 30 days notice and opportunity to contest, any adverse finding.

Matching activity will be effective 30 days after publication in the **Federal Register** and will continue for a period of 18 months from the effective date unless extended by the Data Integrity Board.

The matching agreement and the required report will be provided to the Office of Management and Budget and the Congress in accordance with 5 U.S.C. 552a (o)(2)(A) and (r). Inquiries may be addressed to Patricia E. Neely, Staff Assistant, Facilities and Administrative Services Staff, Justice Management Division, Department of Justice, Room 529, 633 Indiana Avenue NW., Washington, DC 20530.

Dated: February 12, 1990.

Harry H. Flickinger,

Assistant Attorney General for Administration.

[FR Doc. 90–3837 Filed 2–16–90; 8:45 am]

BILLING CODE 4410–10–M

Antitrust Division

Proposed Termination of Final Judgment; E.I. du Pont de Nemours and Co. et al.

Notice is hereby given the E.I. du Pont de Nemours and Company ("DuPont") has filed with the United States District Court for the Northern District of Illinois a motion to terminate the Final Judgment in *United States* v. *E.I. du Pont de Nemours and Co., et al.*, Civil No. 49–C–1071 and the Department of Justice ("Department"), in a stipulation also filed with the court, has consented to termination of the Final Judgment, but has reserved the right to withdraw its consent based on public comments or for other reasons. The complaint in this case (filed in June 30, 1949, and later amended in 1952 and again in 1953) alleged, *inter alia*, that DuPont had gained an illegal preference over its competitors in the sale of automotive finishes and fabrics to General Motors Corporation ("GM"), also a defendant therein, due to the acquisition, during 1917–1919, by DuPont and related parties of 23% of GM's common stock. The acquisition was asserted to violate Section 7 of the Clayton Act and sections 1 and 2 of the Sherman Act. The complaint was dismissed by the district court after trial, which decision was reversed on appeal by the Supreme Court which directed that all of the GM stock held by DuPont, Christiana Securities Company ("Christiana") and related parties be completely divested.

The Final Judgment (entered on March 1, 1962) required that DuPont, Christiana, various members of the DuPont family and certain other individuals divest themselves of all GM stock, enjoined them from future acquisitions of such stock, prohibited DuPont and GM from entering into any requirements contracts until the offending GM stockholdings had been divested, and forbade various interlocking relationships among the defendants. While most of its operative provisions have already expired, the Final Judgment, as presently in effect, still enjoins: (1) DuPont and Christiana from acquiring GM stock; and (2) certain interlocking relationships between DuPont and Christiana on the one hand and GM on the other.

The Department has filed with the court a memorandum setting forth the reasons why the Department believes that termination of the Final Judgment would serve the public interest. Copies of the complaint and Final Judgment, DuPont's motion papers, the stipulation containing the Government's consent, the Department's memorandum and all further papers filed with the court in connection with this motion will be available for inspection at Room 3233, Antitrust Division, Department of Justice, 10th Street and Pennsylvania Avenue NW., Washington, DC 20530 (telephone 202–633–2481), and at the Office of the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, 219 Dearborn Street, Chicago, Illinois 60604. Copies of any of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice Regulations.

Interested persons may submit comments regarding the proposed termination of the decrees to the Department. Such comments must be received within the sixty-day period established by court order, and will be filed with the court by the Department. Comments should be addressed to P. Terry Lubeck, Chief, Litigation II Section, Antitrust Division, Department of Justice, Washington, DC 20001 (telephone: (202) 724–7966).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90–3836 Filed 2–16–90; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M–90–21–C]

Mountain Run Enterprises; Petition for Modification of Application of Mandatory Safety Standard

Mountain Run Enterprises, P.O. Box 85, Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its Orchard Vein Slope Mine (I.D. No. 36–07864) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line be 9,000 cubic feet a minute. The minimum quantity of air reaching each working face is required to be 3,000 cubic feet a minute.

2. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine. Ignition, explosion, and mine fire history are nonexistent for the mine. There is no history of harmful quantities of carbon monoxide and other noxious or poisonous gases.

3. Mine dust sampling programs have revealed extremely low concentrations or respirable dust.

4. Requiring extremely high velocities in small cross-sectional airways and manways in friable anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners and cause extremely uncomfortable damp and cold conditions in the mine.

5. As a alternate method, petitioner proposes that:

(a) The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

(b) The minimum quantity of air reaching the last open crosscut in any

pair or set of developing entries by 5,000 cubic feet per minute; and

(c) The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 22, 1990. Copies of the petition are available for inspection at that address.

Dated: February 9, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-3845 Filed 2-16-90; 8:45 am]

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[Docket No. M-90-18-C]

Southern Ohio Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Southern Ohio Coal Company, P.O. Box 490, Athens, Ohio 45701 has filed a petition to modify the application of 30 CFR 75.1002-1(a) (location of other electric equipment; requirements for permissibility) to its Meigs No. 31 Mine (I.D. No. 33-01172) located in Meigs County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that electric equipment other than trolley wires, trolley feeder wires, high-voltage cables, and transformers be permissible, and maintained in a permissible condition when such electric equipment is located within 150 feet from pillar workings.

2. As an alternate method, petitioner requests a modification of the standard to permit the location of nonpermissible electric equipment in the 4 South section less than 150 feet, but at least 100 feet, from the A1 longwall gob.

3. Two rows of permanent stoppings would be maintained between the nonpermissible equipment and the mined out area. The petitioner outlines specific equipment and procedures in the petition.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 22, 1990. Copies of the petition are available for inspection at that address.

Dated: February 9, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-3846 Filed 2-16-90; 8:45 am]

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Pension and Welfare Benefits Administration

[Application No. D-7989, et al.]

Proposed Exemptions; J.P. Morgan Securities, Inc. (JPMS), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N-5671, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-5507, 200 Constitution Avenue NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

J. P. Morgan Securities, Inc. (JPMS) Located in New York, New York

[Application No. D-7989]

Proposed Exemption

I. Transactions

A. Effective December 29, 1988, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A.(1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[1]

B. Effective December 29, 1988, the restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity.[2] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraphs B.(1)(i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B.(1) or (2).

C. Effective December 29, 1988, the restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust; provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.[3]

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a "qualified administrative fee" as defined in section III.S.

D. Effective December 29, 1988, the restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975 (a) and (b) of the Code by reason of sections 4975(c)(1) (A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14 (F), (G), (H), or (I) of the Act or section 4975(e)(2) (F), (G), (H), or (I) of the Code), solely because of the plan's ownership of certificates.

II. General Conditions

A. The relief provided under part I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is in one of the three highest generic rating categories from either Standard & Poor's Corporation (S&P's), Moody's Investors Service, Inc. (Moody's), Duff & Phelps, Inc. (D & P) or Fitch Investors Service, Inc. (Fitch);

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than

[1] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3-21(c).

[2] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[3] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith; and

(6) The plan investing in such certificates is an "accredited investor" as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, or any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under part I, if the provision of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

III. Definitions

For purposes of this exemption:

A. *"Certificate"* means:

(1) A certificate—

(a) That represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) A certificate denominated as a debt instrument—

(a) That represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) within the meaning of section 860D(a) of the Internal Revenue Code of 1986; and

(b) That is issued by and is an obligation of a trust;

With respect to certificates defined in (1) and (2) for which JPMS or any of its affiliates is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this exemption, references to "certificates representing an interest in a trust" include certificates denominated as debt which are issued by a trust.

B. *"Trust"* means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either—

(a) Secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association);

(b) Secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in section III.T);

(c) Obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and commercial real property, (including obligations secured by leasehold interests on commercial real property);

(d) Obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in section III.U);

(e) "Guaranteed governmental mortgage pool certificates," as defined in 29 CFR 2510.3-101(i)(2);

(f) Fractional undivided interests in any of the obligations described in clauses (a)–(e) of this section B.(1);

(2) Property which had secured any of the obligations described in section B.(1);

(3) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are made to certificateholders; and

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements with respect to any obligations described in section B.(1).

Notwithstanding the foregoing, the term "trust" does not include any investment pool unless: (i) The investment pool consists only of assets of the type which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating categories by S&P's, Moody's, D & P or Fitch for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. *"Underwriter"* means:

(1) JPMS;

(2) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with JPMS; or

(3) Any member of an underwriting syndicate or selling group of which JPMS or a person described in (2) is a manager or co-manager with respect to the certificates.

D. *"Sponsor"* means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. *"Master Servicer"* means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. *"Subservicer"* means an entity which, under the supervision of and on behalf of the master servicer, services loans contained in the trust, but is not a party to the pooling and servicing agreement.

G. *"Servicer"* means any entity which services loans contained in the trust, including the master servicer and any subservicer.

H. *"Trustee"* means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. *"Insurer"* means the insurer or guarantor of, or provider of other credit support for, a trust.

Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. *"Obligor"* means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, "obligor" shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. *"Excluded Plan"* means any plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

L. *"Restricted Group"* with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust; or

(7) Any affiliate of a person described in (1)–(6) above.

M. *"Affiliate"* of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. *"Control"* means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be *"independent"* of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. *"Sale"* includes the entrance into a forward delivery commitment (as defined in section Q below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. *"Forward delivery commitment"* means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificate from, the other party).

R. *"Reasonable compensation"* has the same meaning as that term is defined in 29 CFR 2550.408c–2.

S. *"Qualified Administrative Fee"* means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) The amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. *"Qualified Equipment Note Secured By A Lease"* means an equipment note:

(a) Which is secured by equipment which is leased;

(b) Which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(c) With respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as the trust would have if the equipment note were secured only by the equipment and not the lease.

U. *"Qualified Motor Vehicle Lease"* means a lease of a motor vehicle where:

(a) The trust holds a security interest in the lease;

(b) The trust holds a security interest in the leased motor vehicle; and

(c) The trust's security interest in the leased motor vehicle is at least as protective of the trust's rights as the trust would receive under a motor vehicle installment loan contract.

V. *"Pooling and Servicing Agreement"* means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, "Pooling and Servicing Agreement" also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

EFFECTIVE DATE: This exemption, if granted, will be effective as of December 29, 1988.

Summary of Facts and Representations

1. JPMS, an indirect wholly-owned subsidiary of J. P. Morgan and Co., Inc., is a Delaware Corporation, a broker-dealer registered with the Securities and Exchange Commission and a member of the New York Stock Exchange, Inc., the American Stock Exchange, Inc., the Chicago Board of Options Exchange, Inc. and the National Association of Securities Dealers. JPMS is a primary dealer in U.S. Government securities and engages in underwriting and dealing in U.S. Government agency securities, state and municipal obligations, commercial paper, mortgage-related securities, consumer receivable-related securities, money market instruments and corporate debt securities. JPMS represents that the authority for JPMS to engage in underwriting and dealing in the securities that are the subject of this application is contained in sections 16, 20, and 21 of the Glass-Steagall Act and in specific orders of the Board of Governors of the Federal Reserve System issued on April 30, 1987 and January 18, 1989.

Trust Assets

2. JPMS seeks exemptive relief to permit plans to invest in pass-through certificates representing undivided interests in the following categories of trusts: (1) Single and multi-family residential or commercial mortgage investment trusts; [4] (2) motor vehicle receivable investment trusts; (3) consumer or commercial receivables investment trusts; and (4) guaranteed governmental mortgage pool certificate investment trusts.[5]

[4] Prohibited Transaction Class Exemption ("PTE") 83–1 (48 FR 895, January 7, 1983), a class exemption for mortgage pool investment trusts, would generally apply to trusts containing single-family residential mortgages, provided that the applicable conditions of PTE 83–1 are met. JPMS requests relief for single-family residential mortgages in this exemption because it would prefer one exemption for all trusts of similar structure.

[5] Guranteed mortgage pool certificates are mortgage-backed securities with respect to which interest and principal payable is guaranteed by the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), or the Federal National Mortgage Association (FNMA). The Department's regulation relating to the definition of plan assets (29 CFR 2510.3–101(i)) provides that where a plan acquires a guaranteed governmental mortgage pool certificate, the plan's assets include the certificate and all of its rights with respect to such certificate under applicable law, but do not, solely by reason of the plan's holding of such certificate, include any of the mortgages underlying such certificate. The applicants are requesting exemptive relief for trusts containing guaranteed governmental mortgage pool certificates because the certificates in the trusts are plan assets.

3. Commercial mortgage investment trusts may include mortgages on ground leases of real property. Commercial mortgages are frequently secured by ground leases on the underlying property, rather than by fee simple interests. The separation of the fee simple interest and the ground lease interest is generally done for tax reasons. Properly structured, the pledge of the ground lease to secure a mortgage provides a lender with the same level of security as would be provided by a pledge of the related fee simple interest. In all cases, the terms of any ground lease to secure a mortgage will be at least ten years longer than the term of that mortgage.

Trust Structure

4. Each trust is established under a pooling and servicing agreement between a sponsor, a servicer and a trustee. The sponsor or servicer of a trust selects assets to be included in the trust. These assets are receivables which may have been originated by a sponsor or servicer of the trust, by an affiliate of a sponsor or servicer or by an unrelated lender and subsequently acquired by the trust sponsor or servicer.

Prior to the closing date, the sponsor establishes the trust and designates an independent entity as trustee. Prior to or on the closing date, the sponsor conveys to the trust legal title to the assets, and the trustee issues certificates representing fractional undivided interests in the trust assets. JPMS, alone or together with other broker-dealers, acts as underwriter or placement agent with respect to the sale of the certificates. Most sales will be either firm commitment underwritings or private placements. In connection with a private placement, JPMS may act either as agent or principal. JPMS may also act as the lead underwriter for a syndicate of securities underwriters.

Certificateholders are entitled to receive monthly, quarterly or semi-annual installments of principal and/or interest, or lease payments due on the receivables, adjusted, in the case of payments of interest, to a specified rate—the pass-through rate—which may be fixed or variable. When payments are made on semi-annual basis, funds are not permitted to be commingled with the assets of the servicer for any period longer than would be permitted for a monthly-pay security. A segregated account is established in the name of the trustee (on behalf of certificateholders) to hold funds received between distribution dates. The account is under the sole control of the trustee, who invests the account's assets in short-term securities which have received a rating comparable to the rating assigned to the certificates. In some cases, the servicer may be permitted to make a single deposit into the account once a month. When the servicer makes such monthly deposits, payments received from obligors by the servicer may be commingled with the servicer's assets during the month prior to deposit. In no event will the period of time between receipt of funds by the servicer and deposit of these funds in a segregated account exceed one month. Furthermore, in those cases where distributions are made semi-annually, the servicer will furnish a report on the operation of the trust to the trustee on a monthly basis. At or about the time the report is delivered to the trustee, it will be made available to certificateholders and delivered to or made available to each rating agency that has rated the certificates.

5. Some of the certificates will be multi-class certificates. JPMS requests exemptive relief for two types of multi-class certificates: "Strip" certificates and "fast-pay/slow-pay" certificates. Strip certificates are a type of security in which the stream of interest payments on mortgages is split from the flow of principal payments and separate classes of certificates are established, each representing rights to disproportionate payments of principal and interest.[6] "Fast-pay/slow-pay" certificates involve the issuance of classes of certificates having different or identical stated maturities but different payment schedules. Interest and/or principal payments received on the underlying receivables are distributed first to the class of certificates having the earliest stated maturity of principal and/or earlier payment schedule, and only when that class of certificates have been paid in full (or has received a specified amount) will distributions be made with respect to the second class of certificates. Distributions on certificates having later stated maturities will proceed in like manner until all the certificateholders have been paid in full. The only difference between this multi-class pass-through arrangement and a single-class pass-through arrangement is the order in which distributions are made to certificateholders. In each case, certificateholders will have a beneficial ownership interest in the underlying assets. In neither case will the rights of a plan purchasing certificates be subordinated to the rights of another certificateholder in the event of default on any of the underlying obligations. In particular, if the amount available for distribution to certificateholders is less than the amount required to be so distributed, all senior certificateholders will share in the amount distributed on a pro rata basis.[7]

6. For tax reasons, the trust must be maintained as an essentially passive entity. Therefore, both the sponsor's discretion and the servicer's discretion with respect to assets included in a trust are severely limited. Pooling and servicing agreements provide for substitution of assets by the sponsor only in the event of defects in loan or lease documentation discovered within a relatively short time after issuance of trust certificates (within 120 days, except in the case of obligations having an original term of 30 years in which case the period will not exceed two years). JPMS represents that the sponsor's "right of substitution" is in effect a remedy for certificateholders in the event of the sponsor's breach of its warranty or representations regarding the assets in a trust (for example, where a defect in title to an asset is discovered after its inclusion in the trust). The pooling and servicing agreement will impose restrictions on substituted receivables to ensure that the substituted receivables have payment characteristics substantially similar to those of the replaced receivables and are at least as creditworthy as the replaced receivables.

In some cases, the affected receivable would be repurchased, with the purchase price applied as a payment on the affected receivable and passed through to certificateholders.

Parties to Transactions

7. The *originator* of a receivable is the entity that initially lends money to a borrower (obligor), such as a homeowner or automobile purchaser, or leases property to the lessee. The originator may either retain a receivable in its portfolio or sell it to a purchaser, such as a trust sponsor.

Originators of receivables included in the trusts will be businesses

[6] It is the Department's understanding that where a plan invests in REMIC "residual" interest certificates to which this exemption applies, some of the income received by the plan as a result of such investment may be considered unrelated business taxable income to the plan, which is subject to income tax under the Code. The Department emphasizes that the prudence requirement of section 404(a)(1)(B) of the Act would require plan fiduciaries to carefully consider this and other tax consequences prior to causing plan assets to be invested in certificates pursuant to this exemption.

[7] If a trust issues subordinated certificates, holders of such subordinate certificates may not share in the amount distributed on a pro rata basis. The Department notes that the exemption does not provide relief for plan investment in such subordinated certificates.

experienced in the origination of receivables of the type included in a trust. Each trust may contain assets of one or more originators. The originator of the receivables may also function as the trust sponsor or servicer.

8. The duties of a trust *sponsor* are typically limited to depositing receivables in a trust in exchange for certificates issued by the trust that are then sold to investors. The sponsor of a trust typically selects the trustee.

9. The *trustee* of a trust is the legal owner of the obligations in the trust. The trustee is also a party to or beneficiary of all the documents and instruments deposited in the trust, and as such is responsible for enforcing all the rights created thereby in favor of certificateholders.

The trustee will be an independent entity, and therefore will be unrelated to JPMS, the trust sponsor or the servicer. JPMS represents that the trustee will be a substantial financial institution experienced in trust activities. The trustee receives a fee for its services, which will be paid by the servicer, sponsor or out of the trust assets. For example, the trustee's fees may be paid out of investment earnings on undistributed cash or from specified amounts on deposit in the trust, as is the case with the servicer's compensation. The method of compensating the trustee will be specified in the pooling and servicing agreement and disclosed in the prospectus or private placement memorandum relating to the offering of the certificates.

10. The *servicer* of a trust administers the receivables on behalf of the certificateholders. The servicer's functions typically involve, among other things, notifying borrowers of amounts due on receivables, maintaining records of payments received on receivables and instituting foreclosure or similar proceedings in the event of default. In cases where a pool of receivables has been purchased from a number of different originators and deposited in a trust, it is common for the receivables to be "subserviced" by their respective originators and for a single entity to "master service" the pool of receivables on behalf of the owners of the related series of certificates. Where this arrangement is adopted, a receivable continues to be serviced from the perspective of the borrower by the local subservicer, while the investor's perspective is that the entire pool of receivables is serviced by a single, central master servicer who collects payments from the local subservicers and passes them through to certificateholders.

In most cases, the originator and servicer of receivables to be included in a trust and the sponsor of the trust (though they themselves may be related) will be unrelated to JPMS. In some cases, however, affiliates of JPMS may originate or service receivables included in a trust, or may sponsor a trust.

Certificate Price, Pass-Through Rate and Fees

11. Where the sponsor of a trust is not the originator of receivables included in the trust, the sponsor generally purchases the receivables in the secondary market, either directly from the originator or from another secondary market participant. The price the sponsor pays for a receivable is determined by competitive market forces, taking into account payment terms, interest rate, quality, and forecasts as to future interest rates.

As compensation for the receivables transferred to the trust, the sponsor receives certificates representing the entire beneficial interest in the trust. The sponsor sells these certificates for cash to investors or securities underwriters.

In some transactions the sponsor may retain a portion of the certificates for its own account. (In some transactions, the originator may sell receivables to a trust for cash. At the time of the sale, the trustee would sell certificates to the public or to underwriters and use the cash proceeds of the sale to pay the originator for the receivables sold to the trust.)

12. The price of the certificates, both in the initial offering and in the secondary market, is affected by market forces including investor demand, the pass-through interest rate on the certificates in relation to the rate payable on investments of similar types and quality, expectations as to the effect on yield resulting from prepayment of underlying receivables, and expectations as to the likelihood of timely payment.

The pass-through rate for certificates is generally equal to the interest rate on receivables included in the trust minus a specified servicing fee.[8] This rate is generally determined by the same market forces that determine the price of a certificate. There is a direct relationship between the price of certificates and the pass-through rate. For example, if certificates backed by comparable pools of mortgages are sold at different pass-through rates, the certificates having the higher pass-through rate would have a higher purchase price.

13. As compensation for performing its servicing duties, the servicer (who may also be the sponsor, and receive fees for acting in that capacity) will typically retain most or all of the difference between payments received on the receivables and payments payable (at the pass-through rate) to certificateholders. The servicer may receive additional compensation by having the use of the amounts paid on the receivables between the time they are received by the servicer and the time they are due to the trust (which time is set forth in the pooling and servicing agreement). The servicer pays the administrative expenses of servicing the trust, including the trustee's fee, out of its servicing compensation.

The servicer is also compensated to the extent it may provide credit enhancement to the trust or otherwise arrange to obtain credit support from another party. This "credit support fee" may be aggregated with other servicing fees, and is paid out of the payments received on the receivables in excess of the pass-through payments made to certificateholders. In some transactions, however, the "credit support fee" is paid in a lump sum at the time the trust is established.

14. The servicer may be entitled to retain certain administrative fees paid by a third party, usually the obligor. These administrative fees fall into three categories: (a) Prepayment fees; (b) late payment and payment extension fees and other fees related to the modification of the terms of an obligation as permitted by the provisions of the pooling and servicing agreement (including the partial release of collateral to the extent provided therein); and (c) fees and charges associated with foreclosure or repossession, the management of foreclosed or repossessed property, or any conversion of a secured obligation into cash proceeds, upon default of an obligation held by a trust.

Compensation payable to the servicer will be set forth or referred to in the pooling and servicing agreement and described in reasonable detail in the prospectus or private placement memorandum relating to the certificates.

15. Payments on receivables may be made by obligors to the servicer at various times during the period preceding any date on which pass-through payments to the trust are due. In some cases, the pooling and servicing agreement may permit the servicer to

[8] The pass-through rate on certificates representing interests in trusts holding leases is determined by breaking down lease payments into "principal" and "interest" components based on an implicit interest rate.

place these payments in non-interest bearing accounts in itself or to commingle such payments with its own funds prior to the distribution dates. In these cases, the servicer would be entitled to the benefit derived from the use of the funds between the date of payment on a receivable and the pass-through date. Commingled payments may not be protected from the creditors of the servicer in the event of the servicer's bankruptcy. In the event payments on receivables are held in a non-interest bearing account or are commingled with the servicer's own funds, the servicer will be required to deposit such payments by a date specified in the pooling and servicing agreement into an account from which the trustee makes payments to certificateholders.

16. JPMS will receive a fee in connection with the securities underwriting or private placement of certificates. In a firm commitment underwriting, this fee would consist of the difference between what JPMS receives for the certificates that it distributes and what it pays the sponsor for those certificates. In a private placement, the fee normally takes the form of an agency commission paid by the sponsor. For some public offerings, JPMS may sell certificates on an agency basis in a best efforts underwriting. In these cases, JPMS would receive an agency commission. In some private placements, JPMS may buy certificates as principal, in which case its fee would consist of the difference between what it receives for the certificates that it sells and what it pays the sponsor for these certificates.

Purchase of Receivables by Servicer

17. The applicant represents that as the principal amount of the receivables in a trust is reduced by payment or repurchase, the cost of administering the trust generally increases, making the servicing of the trust prohibitively expensive at some point. Consequently, the pooling and servicing agreement generally provides that the servicer may purchase the receivables included in the trust when the aggregate unpaid balance payable on the receivables is reduced to a specified percentage (usually 5 or 10 percent) of the initial balance.

The purchase price of a receivable is specified in the pooling and servicing agreement and will be at least equal to the unpaid principal balance on the receivable plus accrued interest, less any unreimbursed advances of principal made by the servicer.

Certificate Ratings

18. The certificates will have received one of the three highest ratings available from either S&P's, Moody's, D&P or Fitch. Insurance or other credit support (such as surety bonds, letters of credit, reserve funds or guarantees) will be obtained by the trust sponsor to the extent necessary for the certificates to attain the desired rating. The amount of the credit support is set by the rating agencies at a level that is a multiple of the very worst historical credit loss experience for receivables of the type included in the trust.

Provision of Credit Support

19. In some cases, the master servicer, or an affiliate of the master servicer, may provide credit support to the trust (i.e. act as an insurer). In these cases, the master servicer, in its capacity as servicer, will first advance funds in a timely manner and to the full extent required by the pooling and servicing agreement if it determines that such advances will be recoverable out of late payments by the obligors or, in the case of a trust which issues subordinated certificates, from amounts otherwise distributable to holders of subordinated certificates.

Otherwise, the master servicer, as the provider of credit support, will be called upon (by itself as servicer acting on behalf of the trustee, or directly by the trustee) to provide funds to cover such payments to the full extent of its obligations as insurer. In some transactions, however, the master servicer may not be obligated to advance funds, but instead would be called upon to provide funds to cover defaulted payments to the full extent of its obligations as insurer. Moreover, a master servicer typically can recover advances either from the provider of credit support or from future payments on affected assets.

If the master servicer fails to advance funds and fails to call upon the credit support mechanism to provide funds to cover delinquent payments, the trustee may exercise its rights as beneficiary of the credit support to obtain funds under the credit support mechanism. Therefore, in all cases, the independent trustee will be ultimately responsible for deciding when to exercise its rights as beneficiary of that credit support.

When a master servicer advances funds, the amount so advanced is recoverable by the servicer out of future payments on receivables held by the trust to the extent not covered by credit support. However, where the master servicer provides credit support to the trust, there are protections in place to guard against a delay in calling upon the credit support to take advantage of the fact that the dollar limit on the credit support declines as payments on receivables are passed through to investors. These safeguards include the following:

(a) There is often a disincentive to postponing credit losses because the sooner repossession or foreclosure activities are commenced, the more value that can be realized on the security for the obligation;

(b) The master servicer has servicing guidelines which include a general policy as to the allowable delinquency period after which an obligation ordinarily will be deemed uncollectible. The pooling and servicing agreement will require the master servicer to follow its normal servicing guidelines and will set forth the master servicer's general policy as to the period of time after which delinquent obligations ordinarily will be considered uncollectible;

(c) As frequently as payments are due on the receivables included in the trust (monthly, quarterly or semi-annually, as set forth in the pooling and servicing agreement), the master servicer is required to report to the independent trustee the amount of all past-due payments and the amount of all servicer advances, along with other current information as to collections on the receivables and draws upon the credit support. Further, the master servicer is required to deliver to the trustee annually a certificate of an executive officer of the master servicer stating that a review of the servicing activities has been made under such officer's supervision, and either stating that the master servicer has fulfilled all of its obligations under the pooling and servicing agreement or, if the master servicer has defaulted under any of its obligations, specifying any such default. The master servicer's reports are reviewed at least annually by independent accountants to ensure that the master servicer is following its normal servicing standards and that the master servicer's reports conform to the master servicer's internal accounting records. The results of the independent accountants' review are delivered to the trustee;

(d) The credit support has a "floor" dollar amount that protects investors against the possibility that a large number of credit losses might occur towards the end of the life of the trust, whether due to servicer advances or any other cause. Once the floor amount has been reached, the servicer lacks an incentive to postpone the recognition of credit losses because the credit support

amount becomes a fixed dollar amount, subject to reduction only for actual draws. From the time that the floor amount is effective until the end of the life of the trust, there are no proportionate reductions in the credit support amount caused by reductions in the pool principal balance. Indeed, since the floor is a fixed dollar amount, the amount of credit support ordinarily increases as a percentage of the pool principal balance during the period that the floor is in effect.

This last safeguard would apply only where the master servicer and the insurer are affiliated or are the same entity. In the case of a trust that issues subordinated certificates which may be held by the servicer or its affiliates, the representations in paragraph (d) above would not apply insofar as the definition of insurer contained in Section III.I. of the operative language of the proposed exemption states that a person is not an insurer solely because it holds subordinated certificates.

Disclosure

20. In connection with the original issuance of certificates, the prospectus or private offering memorandum will be furnished to investing plans. The prospectus or private offering memorandum will contain information material to a fiduciary's decision to invest in the certificates, including:

(a) Information concerning the certificates, including payment terms, tax consequences of owning and selling certificates, the legal investment status and rating of the certificates, and the material risk factors with respect to an investment in the certificates;

(b) Information about the underlying receivables, including the types of receivables, the diversification of the receivables, their payment terms, and legal aspects of the receivables;

(c) Information about the servicing of the receivables, including the identity of the master servicer and servicing compensation;

(d) Information about the sponsor of the trust;

(e) The material terms of the pooling and servicing agreement; and

(f) Information about the scope and nature of the secondary market, if any, for the certificates.

21. Certificateholders will be provided with information concerning the amount of principal and interest to be paid on certificates at least as frequently as distributions are made to certificateholders. Certificateholders will also be provided with periodic information statements setting forth material information concerning the underlying assets, including, where applicable, information as to the amount and number of delinquent and defaulted loans or receivables.

22. In the case of a trust that offers and sells certificates in a registered public offering, the trustee, the servicer or the sponsor will file such periodic reports as may be required to be filed under the Securities Exchange Act of 1934. Although some trusts that offer certificates in a public offering will file quarterly reports on Form 10–Q and Annual Reports on Form 10–K, many trusts obtain, by application to the Securities and Exchange Commission, a complete exemption from the requirement to file quarterly reports on Form 10–Q and a modification of the disclosure requirements for annual reports on Form 10–K. If such an exemption is obtained, these trusts normally would continue to have the obligation to file current reports on Form 8–K to report material developments concerning the trust and the certificates. While the Securities and Exchange Commission's interpretation of the periodic reporting requirements is subject to change, periodic reports concerning a trust will be filed to the extent required under the Securities Exchange Act of 1934.

23. At or about the time distributions are made to certificateholders, a report on operation of the trust, including information on any delinquencies or advances by servicers, will be made to the trustee and upon request, any rating agencies that rated the certificates. These reports will be available to investors and the availability of the reports will be made known to potential investors. In addition, promptly after each distribution date, certificateholders will receive a statement summarizing information regarding the trust and its assets. Such statement will include information regarding payments and prepayments, delinquencies and foreclosures.

Secondary Market Transactions

24. JPMS has historically made a market in mortgage-backed and asset-backed securities of the type described in the exemption request. JPMS anticipates that it will continue to make such a market in the future, subject to market conditions and applicable law.

Retroactive Relief

25. JPMS represents that it has engaged in transactions related to mortgage-backed and asset-backed securities based on the assumption that retroactive relief would not be granted. However, since December 29, 1988, it is possible that some transactions may have occurred that arguably would be prohibited. For example, because many certificates are held in street or nominee names, it is not always possible to identify whether the percentage interest of plans in a trust is or is not "significant" for purposes of the Department's regulation relating to the definition of plan assets (29 CFR 2510.3–101(f)). In addition, with respect to the "publicly-offered security" exception contained in that regulation (29 CFR 2510.3–101(b)), JPMS represents that it is difficult to determine whether each purchaser of a certificate is independent of all other purchasers.

Summary

26. In summary, the applicant represents that the transactions for which exemptive relief is requested satisfy the statutory criteria of section 408(a) of the Act due to the following:

(a) The trusts contain "fixed pools" of assets. There is little discretion on the part of the trust sponsor to substitute receivables contained in the trust once the trust has been formed;

(b) Certificates in which plans invest will have been rated in one of the three highest rating categories by S&P's, Moody's, D&P or Fitch. Credit support will be obtained to the extent necessary to attain the desired rating;

(c) All transactions for which JPMS seeks exemptive relief will be governed by the pooling and servicing agreement, which is made available to plan fiduciaries for their review prior to the plan's investment in certificates;

(d) Exemptive relief from sections 406(b) and 407 for sales to plans is substantially limited; and

(e) JPMS has made, and anticipates that it will continue to make, a secondary market in certificates.

Discussion of Proposed Exemption

I. Comparison of Proposed Exemption with Class Exemption PTE 83–1

The exemptive relief proposed herein is similar to that provided in PTE 81–7 (46 FR 7520, January 23, 1981), Class Exemption for Certain Transactions Involving Mortgage Pool Investment Trusts, amended and restated as PTE 83–1 (48 FR 895, January 7, 1983).

PTE 83–1 applies to mortgage pool investment trusts consisting of interest-bearing obligations secured by first or second mortgages or deeds of trust on single-family residential property. The exemption provides relief from sections 406(a) and 407 for the sale, exchange or transfer in the initial issuance of mortgage pool certificates between the trust sponsor and a plan, when the sponsor, trustee or insurer of the trust is

a party-in-interest with respect to the plan, and the continued holding of such certificates, provided that the conditions set forth in the exemption are met. PTE 83–1 also provides exemptive relief from section 406(b)(1) and (b)(2) of the Act for the above-described transactions when the sponsor, trustee or insurer of the trust is a fiduciary with respect to the plan assets invested in such certificates, provided that additional conditions set forth in the exemption are met. In particular, section 406(b) relief is conditioned upon the approval of the transaction by an independent fiduciary. Moreover, the total value of certificates purchased by a plan must not exceed 25 percent of the amount of the issue, and at least 50 percent of the aggregate amount of the issue must be acquired by persons independent of the trust sponsor, trustee or insurer. Finally, PTE 83–1 provides conditional exemptive relief from section 406(a) and (b) of the Act for transactions in connection with the servicing and operation of the mortgage trust.

Under PTE 83–1, exemptive relief for the above transactions is conditioned upon the sponsor and the trustee of the mortgage trust maintaining a system for insuring or otherwise protecting the pooled mortgage loans and the property securing such loans, and for indemnifying certificateholders against reductions in pass-through payments due to defaults in loan payments or property damage. This system must provide such protection and indemnification up to an amount not less than the greater of one percent of the aggregate principal balance of all trust mortgages or the principal balance of the largest mortgage.

The exemptive relief proposed herein differs from that provided by PTE 83–1 in the following major respects: (1) The proposed exemption provides individual exemptive relief rather than class relief; (2) The proposed exemption covers transactions involving trusts containing a broader range of assets than single-family residential mortgages; (3) Instead of requiring a system for insuring the pooled receivables, the proposed exemption conditions relief upon the certificates having received one of the three highest ratings available from S&P's, Moody's, D&P or Fitch (insurance or other credit support would be obtained only to the extent necessary for the certificates to attain the desired rating); and (4) The proposed exemption provides more limited section 406(b) and section 407 relief for sales transactions.

II. Ratings of Certificates

After consideration of the representations of the applicant and information provided by S&P's, Moody's, D&P and Fitch, the Department has decided to condition exemptive relief upon the certificates having attained a rating in one of the three highest generic rating categories from S&P's, Moody's, D&P or Fitch. The Department believes that the rating condition will permit the applicant flexibility in structuring trusts containing a variety of mortgages and other receivables while ensuring that the interests of plans investing in certificates are protected. The Department also believes that the ratings are indicative of the relative safety of investments in trusts containing secured receivables. The Department is conditioning the proposed exemptive relief upon each particular type of asset-backed security having been rated in one of the three highest rating categories for at least one year and having been sold to investors other than plans for at least one year.[9]

III. Limited Section 406(b) and Section 407(a) Relief for Sales

The applicant represents that in some cases a trust sponsor, trustee, servicer, insurer, an obligor with respect to receivables contained in a trust, or an underwriter of certificates may be a pre-existing party in interest with respect to an investing plan.[10] In these cases, a direct or indirect sale of certificates by that party in interest to the plan would be a prohibited sale or exchange of property under section 406(a)(1)(A) of the Act.[11] Likewise, issues are raised under section 406(a)(1)(D) of the Act where a plan fiduciary causes a plan to purchase certificates where trust funds will be used to benefit a party in interest.

Additionally, the applicant represents that a trust sponsor, servicer, trustee, insurer, an obligor with respect to receivables contained in a trust, or an underwriter of certificates representing an interest in a trust may be a fiduciary with respect to an investing plan. The applicant represents that the exercise of fiduciary authority by any of these parties to cause the plan to invest in certificates representing an interest in the trust would violate section 406(b)(1), and in some cases section 406(b)(2), of the Act.

Moreover, the applicant represents that to the extent there is a plan asset "look through" to the underlying assets of a trust, the investment in certificates by a plan covering employees of an obligor with respect to receivables contained in a trust may be prohibited by sections 406(a) and 407(a) of the Act.

After consideration of the issues involved, the Department has determined to provide the limited sections 406(b) and 407(a) relief as specified in the proposed exemption.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Kidder, Peabody & Co., Incorporated (Kidder) Located in New York, New York

[Application No. D–7937]

Proposed Exemption

I. Transactions

A. Effective February 13, 1989, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

[9] In referring to different "types" of asset-backed securities, the Department means certificates representing interests in trusts containing different "types" of receivables, such as single family residential mortgages, multi-family residential mortgages, commercial mortgages, home equity loans, auto loan receivables, installment obligations for consumer durables secured by purchase money security interests, etc. The Department intends this condition to require that certificates in which a plan invests are of the type that have been rated (in one of the three highest generic rating categories by S&P's, Moody's, D&P and Fitch) and purchased by investors other than plans for at least one year prior to the plan's investment pursuant to the proposed exemption. In this regard, the Department does not intend to require that the particular assets contained in a trust must have been "seasoned" (e.g., originated at least one year prior to the plan's investment in the trust).

[10] In this regard, we note that the exemptive relief proposed herein is limited to certificates with respect to which JPMS or any of its affiliates is either (a) the sole underwriter or manager or comanager of the underwriting syndicate, or (b) a selling or placement agent.

[11] The applicant represents that where a trust sponsor is an affiliate of JPMS, sales to plans by the sponsor may be exempt under PTE 75–1, Part II (relating to purchases and sales of securities by broker-dealers and their affiliates), if JPMS is not a fiduciary with respect to plan assets to be invested in certificates.

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A. (1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[12]

B. Effective February 13, 1989, the restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity.[13] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraphs B.(1) (i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B. (1) or (2).

C. Effective February 13, 1989, the restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust; provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.[14]

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a "qualified administrative fee" as defined in section III.S.

D. Effective February 13, 1989, the restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975 (a) and (b) of the Code by reason of sections 4975(c)(1) (A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14) (F), (G), (H) or (I) of the Act or section 4975(e)(2) (F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

II. General Conditions

A. The relief provided under Part I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is in one of the three highest generic rating categories from either Standard & Poor's Corporation (S&P's), Moody's Investors Service, Inc. (Moody's), Duff & Phelps Inc. (D & P) or Fitch Investors Service, Inc. (Fitch);

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith; and

(6) The plan investing in such certificates is an "accredited investor" as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, or any obligor, unless it or any of its affiliates has

[12] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3-21(c).

[13] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[14] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Part I, if the provision of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

III. Definitions

For purposes of this exemption:

A. *"Certificate"* means:

(1) A certificate

(a) That represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) A certificate denominated as a debt instrument (a) that represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) within the meaning of section 860D(a) of the Internal Revenue Code of 1986; and

(b) that is issued by and is an obligation of a trust;

With respect to certificates defined in (1) and (2) for which Kidder or any of its affiliates is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this exemption, references to "certificates representing an interest in a trust" include certificates denominated as debt which are issued by a trust.

B. *"Trust"* means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either

(a) Secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association);

(b) Secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in section III.T);

(c) Obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and commercial real property, (including obligations secured by leasehold interests on commercial real property);

(d) Obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in section III.U);

(e) "Guaranteed governmental mortgage pool certificates," as defined in 29 CFR 2510.3–101(i)(2);

(f) Fractional undivided interests in any of the obligations described in clauses (a)–(e) of this section B.(1);

(2) Property which had secured any of the obligations described in subsection B.(1);

(3) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to made to certificateholders; and

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements with respect to any obligations described in subsection B.(1).

Notwithstanding the foregoing, the term "trust" does not include any investment pool unless: (i) The investment pool consists only of assets of the type which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating categories by S&P's, Moody's, D & P, or Fitch for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. *"Underwriter"* means:

(1) Kidder;

(2) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with Kidder; or

(3) Any member of an underwriting syndicate or selling group of which Kidder or a person described in (2) is a manager or co-manager with respect to the certificates.

D. *"Sponsor"* means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. *"Master Servicer"* means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. *"Subservicer"* means an entity which, under the supervision of and on behalf of the master servicer, services loans contained in the trust, but is not a party to the pooling and servicing agreement.

G. *"Servicer"* means any entity which services loans contained in the trust, including the master servicer and any subservicer.

H. *"Trustee"* means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. *"Insurer"* means the insurer or guarantor of, or provider of other credit support for, a trust. Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. *"Obligor"* means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, "obligor" shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. *"Excluded Plan"* means any plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

L. *"Restricted Group"* with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust; or

(7) Any affiliate of a person described in (1)–(6) above.

M. *"Affiliate"* of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. *"Control"* means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be "independent" of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. *"Sale"* includes the entrance into a forward delivery commitment (as defined in section Q below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. *"Forward delivery commitment"* means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificate from, the other party).

R. *"Reasonable compensation"* has the same meaning as that term is defined in 29 CFR 2550.408c–2.

S. *"Qualified Administrative Fee"* means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) The amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. *"Qualified Equipment Note Secured By A Lease"* means an equipment note:

(a) Which is secured by equipment which is leased;

(b) Which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(c) With respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as the trust would have if the equipment note were secured only by the equipment and not the lease.

U. *"Qualified Motor Vehicle Lease"* means a lease of a motor vehicle where:

(a) The trust holds a security interest in the lease;

(b) The trust holds a security interest in the leased motor vehicle; and

(c) The trust's security interest in the leased motor vehicle is at least as protective of the trust's rights as the trust would receive under a motor vehicle installment loan contract.

V. *"Pooling and Servicing Agreement"* means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, "Pooling and Servicing Agreement" also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

Effective Date: This exemption, if granted, will be effective for transactions occurring on or after February 13, 1989.

Summary of Facts and Representations

1. Kidder is an international investment banking firm which engages in securities transactions as both a principal and agent and which provides a broad range of underwriting, research and financial services to domestic and foreign financial institutions, corporations, governments, foundations, endowment trusts, insurance companies, investment companies, trust funds, securities dealers, pension funds and individuals. Kidder, Peabody Mortgage Finance and Real Estate Departments underwrite and trade a broad range of mortgage-backed securities and mortgage loans, and provide related investment banking services with respect to real estate and housing.

Trust Assets

2. Kidder seeks exemptive relief to permit plans to invest in pass-through certificates representing undivided interests in the following categories of trusts: (1) Single and multi-family residential or commercial mortgage investment trusts;[15] (2) motor vehicle receivable investment trusts; (3) consumer or commercial receivables investment trusts; and (4) guaranteed governmental mortgage pool certificate investment trusts.[16]

3. Commercial mortgage investment trusts may include mortgages on ground leases of real property. Commercial mortgages are frequently secured by ground leases on the underlying property, rather than by fee simple interests. The separation of the fee simple interest and the ground lease interest is generally done for tax reasons. Properly structured, the pledge of the ground lease to secure a mortgage provides a lender with the same level of security as would be provided by a pledge of the related fee simple interest. The terms of the ground leases pledged to secure leasehold mortgages will in all cases be at least ten years longer than the term of such mortgages.

Trust Structure

4. Each trust is established under a pooling and servicing agreement between a sponsor, a servicer and a trustee. The sponsor or servicer of a trust selects assets to be included in the trust. These assets are receivables

[15] The Department notes that PTE 83–1 [48 FR 895, January 7, 1983], a class exemption for mortgage pool investment trusts, would generally apply to trusts containing single-family residential mortgages, provided that the applicable conditions of PTE 83–1 are met. Kidder requests relief for single-family residential mortgages in this exemption because it would prefer one exemption for all trusts of similar structure. However, Kidder has stated that it may still avail itself of the exemptive relief provided by PTE 83–1.

[16] "Guaranteed governmental mortgage pool certificates are mortgage-backed securities with respect to which interest and principal payable is guaranteed by the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), or the Federal National Mortgage Association (FNMA). The Department's regulation relating to the definition of plan assets (29 CFR 2510.3–101(i)) provides that where a plan acquires a guaranteed governmental mortgage pool certificate, the plan's assets include the certificate and all of its rights with respect to such certificate under applicable law, but do not, solely by reason of the plan's holding of such certificate, include any of the mortgages underlying such certificate. The applicant is requesting exemptive relief for trusts containing guaranteed governmental mortgage pool certificates because the certificates in the trusts are plan assets.

which may have been originated by a sponsor or servicer of the trust, an affiliate of the sponsor or servicer, or by an unrelated lender and subsequently acquired by the trust sponsor or servicer.

Prior to the closing date, the sponsor acquires legal title to all assets selected for the trust, establishes the trust and designates an independent entity as trustee. On the closing date, the sponsor conveys to the trust legal title to the assets, and the trustee issues certificates representing fractional undivided interests in the trust assets. Kidder, alone or together with other broker-dealers, acts as underwriter or placement agent with respect to the sale of the certificates. All of the public offerings of certificates made to date and all of the public offerings of certificates presently contemplated have been or are to be underwritten on a firm commitment basis. In addition, Kidder has privately placed certificates on both a firm commitment and an agency basis. Kidder may also act as the lead underwriter for a syndicate of securities underwriters.

Certificateholders are entitled to receive monthly, quarterly or semi-annually installments of principal and/or interest, or lease payments due on the receivables, adjusted, in the case of payments of interest, to a specified rate—the pass-through rate—which may be fixed or variable.

5. Some of the certificates will be multi-class certificates. Kidder requests exemptive relief for two types of multi-class certificates: "strip" certificates and "fast-pay/ slow-pay" certificates. Strip certificates are a type of security in which the stream of interest payments on receivables is split from the flow of principal payments and separate classes of certificates are established, each representing rights to disproportionate payments of principal and interest." [17]

"Fast-pay/slow-pay" certificates involve the issuance of classes of certificates having different stated maturities or the same maturities with different payment schedules. Interest and/or principal payments received on the underlying receivables are distributed first to the class of certificates having the earliest stated maturity of principal, and/or earlier payment schedule, and only when that class of certificates has been paid in full (or has received a specified amount) will distributions be made with respect to the second class of certificates. Distributions on certificates having later stated maturities will proceed in like manner until all the certificateholders have been paid in full. The only difference between this multi-class pass-through arrangement and a single-class pass-through arrangement is the order in which distributions are made to certificateholders. In each case, certificateholders will have a beneficial ownership interest in the underlying assets. In neither case will the rights of a plan purchasing certificates be subordinated to the rights of another certificateholder in the event of default on any of the underlying obligations. In particular, if the amount available for distribution to certificateholders is less than the amount required to be so distributed, all senior certificateholders will share in the amount distributed on a pro rata basis.[18]

6. For tax reasons, the trust must be maintained as an essentially passive entity. Therefore, both the sponsor's discretion and the servicer's discretion with respect to assets included in a trust are severely limited. Pooling and servicing agreements provide for the substitution of receivables by the sponsor only in the event of defects in documentation discovered within a short time after the issuance of trust certificates (within 120 days, except with respect to 30-year obligations, in which case the period may be as long as two years). Any receivable so substituted is required to have characteristics substantially similar to the replaced receivable and will be at least as creditworthy as the replaced receivable.

In some cases, the affected receivable would be repurchased, with the purchase price applied as a payment on the affected receivable and passed through to certificateholders.

Parties to Transactions

7. The *originator* of a receivable is the entity that initially lends money to a borrower (obligor), such as a homeowner or automobile purchaser, or leases property to the lessee. The originator may either retain a receivable in its portfolio or sell it to a purchaser, such as a trust sponsor.

Originators of receivables included in the trusts will be entities that originate receivables in the ordinary course of their business, including finance companies, for whom such origination constitutes the bulk of their operations, financial institutions for whom such origination constitutes a substantial part of their operations, and any kind of manufacturer, merchant, or service enterprise for whom such origination is an incidental part of its operations. Each trust may contain assets of one or more originators. The originator of the receivables may also function as the trust sponsor or servicer.

8. The *sponsor* will be one of three entities: (i) A special-purpose corporation unaffiliated with the servicer, (ii) a special-purpose or other corporation affiliated with the servicer, or (iii) the servicer itself. Where the sponsor is not also the servicer, the sponsor's role will generally be limited to acquiring the receivables to be included in the trust, establishing the trust, designating the trustee, and assigning the receivables to the trust.

9. The *trustee* of a trust is the legal owner of the obligations in the trust. The trustee is also a party to or beneficiary of all the documents and instruments deposited in the trust, and as such is responsible for enforcing all the rights created thereby in favor of certificateholders.

The trustee will be an independent entity, and therefore will be unrelated to Kidder, the trust sponsor or the servicer. Kidder represents that the trustee will be a substantial financial institution or trust company experienced in trust activities. The trustee receives a fee for its services, which will be paid by the sponsor, servicer or trust. The method of compensating the trustee will be specified in the pooling and servicing agreement and disclosed in the prospectus or private placement memorandum relating to the offering of the certificates.

10. The *servicer* of a trust administers the receivables on behalf of the certificateholders. The servicer's functions typically involve, among other things, notifying borrowers of amounts due on receivables, maintaining records of payments received on receivables and instituting foreclosure or similar proceedings in the event of default. In cases where a pool of receivables has been purchased from a number of different originators and deposited in a trust, it is common for the receivables to be "subserviced" by their respective originators and for a single entity to

[17] It is the Department's understanding that where a plan invests in REMIC "residual" interest certificates to which this exemption applies, some of the income received by the plan as a result of such investment may be considered unrelated business taxable income to the plan, which is subject to income tax under the Code. The Department emphasizes that the prudence requirement of section 404(a)(1)(B) of the Act would require plan fiduciaries to carefully consider this and other tax consequences prior to causing plan assets to be invested in certificates pursuant to this exemption.

[18] If a trust issues subordinate certificates, holders of such subordinate certificates may not share in the amount distributed on a pro rata basis. The Department notes that the exemption does not provide relief for plan investment in such subordinated certificates.

"master service" the pool of receivables on behalf of the owners of the related series of certificates. Where this arrangement is adopted, a receivable continues to be serviced from the perspective of the borrower by the local subservicer, while the investor's perspective is that the entire pool of receivables is serviced by a single, central master servicer who collects payments from the local subservicers and passes them through to certificateholders.

In most cases, the originator and servicer of receivables to be included in a trust and the sponsor of the trust (though they themselves may be related) will be unrelated to Kidder. In some cases, however, affiliates of Kidder may originate or service receivables included in a trust, or may sponsor a trust.

Certificate Price, Pass-Through Rate and Fees

11. Where the sponsor of a trust is not the originator of receivables included in a trust, the sponsor generally purchases the receivables in the secondary market, either directly from the originator or from another secondary market participant. The price the sponsor pays for a receivable is determined by competitive market forces, taking into account payment terms, interest rate, quality, and forecasts as to future interest rates.

As compensation for the receivables transferred to the trust, the sponsor receives certificates representing the entire beneficial interest in the trust, or the cash proceeds of the sale of such certificates. If the sponsor receives certificates from the trust, the sponsor sells all or a portion of these certificates for cash to investors or securities underwriters. In some transactions, the sponsor or an affiliate may retain a portion of the certificates for its own account. The transfer of the receivables to the trust by the sponsor, the sale of certificates to investors, and the receipt of the cash proceeds by the sponsor generally take place simultaneously.

12. The price of the certificates, both in the initial offering and in the secondary market, is affected by market forces including investor demand, the pass-through interest rate on the certificates in relation to the rate payable on investments of similar types and quality, expectations as to the effect on yield resulting from prepayment of underlying receivables, and expectations as to the likelihood of timely payment.

The pass-through rate for certificates is equal to the interest rate on receivables included in the trust minus a specified servicing fee.[19] This rate is generally determined by the same market forces that determine the price of a certificate. The price of a certificate and its pass-through, or coupon rate together determine the yield to investors. If an investor purchases a certificate at less than par, that discount augments the stated pass-through rate; conversely, a certificate purchased at a premium yields less than the stated coupon.

13. As compensation for performing its servicing duties, the servicer (who may also be the sponsor, and receive fees for acting in that capacity) will retain the difference between payments received on the receivables in the trust and payments payable (at the pass-through rate) to certificateholders, except that in some cases a portion of the payments on receivables may be paid to a third party, such as a fee paid to a provider of credit support. The servicer may receive additional compensation by having the use of the amounts paid on the receivables between the time they are received by the servicer and the time they are due to the trust (which time is set forth in the pooling and servicing agreement). The servicer will be required to pay the administrative expenses of servicing the trust, including the trustee's fee, out of its servicing compensation.

The servicer is also compensated to the extent it may provide credit enhancement to the trust or otherwise arrange to obtain credit support from another party. This "credit support fee" may be aggregated with other servicing fees, and is either paid out of the interest income received on the receivables in excess of the pass-through rate or paid in a lump sum at the time the trust is established.

14. The servicer may be entitled to retain certain administrative fees paid by a third party, usually the obligor. These adninistrative fees fall into three categories: (a) Prepayment fees; (b) late payment and payment extension fees; and (c) fees and charges associated with foreclosure or repossession, or other conversion of a secured position into cash proceeds, upon default of an obligation.

Compensation payable to the servicer will be set forth or referred to in the pooling and servicing agreement and described in reasonable detail in the prospectus or private placement memorandum relating to the certificates.

[19] The pass-through rate on certificates representing interests in trusts holding leases is determined by breaking down lease payments into "principal" and "interest" components based on an implicit interest rate.

15. Payments on receivables may be made by obligors to the servicer at various times during the period preceding any date on which pass-through payments to the trust are due. In some cases, the pooling and servicing agreement may permit the servicer to place these payments in non-interest bearing accounts in itself or to commingle such payments with its own funds prior to the distribution dates. In these cases, the servicer would be entitled to the benefit derived from the use of the funds between the date of payment on a receivable and the pass-through date. Commingled payments may not be protected from the creditors of the servicer in the event of the servicer's bankruptcy or receivership. In those instances when payments on receivables are held in non-interest bearing accounts or are commingled with the servicer's own funds, the servicer is required to deposit these payments by a date specified in the pooling and servicing agreement into an account from which the trustee makes payments to certificateholders.

16. Kidder will receive a fee in connection with the securities underwriting or private placement of certificates. In a securities underwriting, this fee would normally consist of the difference between what Kidder receives for the certificates that it distributes and what it pays the sponsor for those certificates. In a private placement, the fee normally takes the form of an agency commission paid by the sponsor.

Purchase of Receivables by the Servicer

17. The applicant represents that as the principal amount of the receivables in a trust is reduced by payment, the cost of administering the trust generally increases, making the servicing of the trust prohibitively expensive at some point. Consequently, the pooling and servicing agreement generally provides that the servicer may purchase the receivables included in the trust when the aggregate unpaid balance payable on the receivables is reduced to a specified percentage (usually between 5 and 10 percent) of the initial balance.

The purchase price of the receivables is specified in the pooling and servicing agreement and will be either: (1) The unpaid principal balance on the receivable plus accrued interest, less any unreimbursed advances of principal made by the servicer; or (2) the greater of (a) the amount in (1), or (b) the fair market value of such obligations in the case of a REMIC, or the fair market value of the certificates in the case of a trust that is not a REMIC.

Certificate Ratings

18. The certificates will have received one of the three highest ratings available from either S&P's, Moody's, D&P or Fitch. Insurance or other credit support (such as surety bonds, letters of credit or guarantees) will be obtained by the trust sponsor to the extent necessary for the certificates to attain the desired rating. The amount of this credit support is set by the rating agencies at a level that is a multiple of the worst historical net credit loss experience for the type of obligations included in the issuing trust.

Provision of Credit Support

19. In some cases, the master servicer, or an affiliate of the master servicer, may provide credit support to the trust (i.e. act as an insurer). Typically, in these cases, the master servicer, in its capacity as servicer, will first advance funds to the full extent that it determines that such advances will be recoverable (a) out of late payments by the obligors, (b) from the credit support provider (which may be itself) or, (c) in the case of a trust that issues subordinated certificates, from amounts otherwise distributable to holders of subordinated certificates, and the master servicer will advance such funds in a timely manner. In some transactions, however, the master servicer may not be obligated to advance funds, but instead would be called upon to provide funds to cover defaulted payments to the full extent of its obligations as insurer. When the servicer is the provider of the credit support and provides its own funds to cover defaulted payments, it will do so either on the initiative of the trustee, or on its own initiative on behalf of the trustee, but in either event it will provide such funds to cover payments to the full extent of its obligations under the credit support mechanism.

If the master servicer fails to advance funds, fails to call upon the credit support mechanism to provide funds to cover defaulted payments, or otherwise fails in its duties, the trustee would be required and would be able to enforce the certificateholders' rights, as both a party to the pooling and servicing agreement and the owner of the trust estate, including rights under the credit support mechanism. Therefore, the trustee, who is independent of the servicer, will have the ultimate right to enforce the credit support arrangement.

When a master servicer advances funds, the amount so advanced is recoverable by the servicer out of future payments on receivables held by the trust to the extent not covered by credit support. However, where the master servicer provides credit support to the trust, there are protections in place to guard against a delay in calling upon the credit support to take advantage of the fact that the credit support declines proportionally with the decrease in the principal amount of the obligations in the trust as payments on receivables are passed through to investors. These safeguards include:

(a) There is often a disincentive to postponing credit losses because the sooner repossession or foreclosure activities are commenced, the more value that can be realized on the security for the obligation;

(b) The master servicer has servicing guidelines which include a general policy as to the allowable delinquency period after which an obligation ordinarily will be deemed uncollectible. The pooling and servicing agreement will require the master servicer to follow its normal servicing guidelines and will set forth the master servicer's general policy as to the period of time after which delinquent obligations ordinarily will be considered uncollectible;

(c) As frequently as payments are due on the receivables included in the trust (monthly or quarterly, as set forth in the pooling and servicing agreement), the master servicer is required to report to the independent trustee the amount of all past-due payments and the amount of all servicer advances, along with other current information as to collections on the receivables and draws upon the credit support. Further, the master servicer is required to deliver to the trustee annually a certificate of an executive officer of the master servicer stating that a review of the servicing activities has been made under such officer's supervision, and either stating that the master servicer has fulfilled all of its obligations under the pooling and servicing agreement or, if the master servicer has defaulted under any of its obligations, specifying any such default. The master servicer's reports are reviewed at least annually by independent accountants to ensure that the master servicer is following its normal servicing standards and that the master servicer's reports conform to the master servicer's internal accounting records. The results of the independent accountants' review are delivered to the trustee;

(d) In cases where the master servicer and the insurer are affiliated or are the same entity, the credit support has a "floor" dollar amount that protects investors against the possibility that a large number of credit losses might occur towards the end of the life of the trust, whether due to servicer advances or any other cause. Once the floor amount has been reached, the servicer lacks an incentive to postpone the recognition of credit losses because the credit support amount becomes a fixed dollar amount, subject to reduction only for actual draws. From the time that the floor amount is effective until the end of the life of the trust, there are no proportionate reductions in the credit support amount caused by reductions in the pool principal balance. Indeed, since the floor is a fixed dollar amount, the amount of credit support ordinarily increases as a percentage of the pool principal balance during the period that the floor is in effect.

Disclosure

20. In connection with the original issuance of certificates, the prospectus or private placement memorandum will be furnished to investing plans. The prospectus or private placement memorandum will contain information material to a fiduciary's decision to invest in the certificates, including:

(a) Information concerning the payment terms of the certificates, the rating of the certificates, and any material risk factors with respect to the certificates;

(b) A description of the trust as a legal entity and a description of how the trust was formed by the seller/servicer or other sponsor of the transaction;

(c) Identification of the independent trustee for the trust;

(d) A description of the receivables contained in the trust, including the types of receivables, the diversification of the receivables, their principal terms, and their material legal aspects;

(e) A description of the sponsor and servicer;

(f) A description of the pooling and servicing agreement, including a description of the seller's principal representations and warranties as to the trust assets and the trustee's remedy for any breach thereof; a description of the procedures for collection of payments on receivables and for making distributions to investors, and a description of the accounts into which such payments are deposited and from which such distributions are made; identification of the servicing compensation and any fees for credit enhancement that are deducted from payments on receivables before distributions are made to investors; a description of periodic statements provided to the trustee, and provided to or made available to investors by the trustee; and a description of the events that constitute events of default under the pooling and servicing contract and a description of

the trustee's and the investors' remedies incident thereto;

(g) A description of the credit support;

(h) A general discussion of the principal federal income tax consequences of the purchase, ownership and disposition of the pass-through securities by a typical investor;

(i) A description of the underwriters' plan for distributing the pass-through securities to investors; and

(j) Information about the scope and nature of the secondary market, if any, for the certificates.

21. Reports indicating the amount of payments of principal and interest are provided to certificateholders at least as frequently as distributions are made to certificateholders. Certificateholders will also be provided with periodic information statements setting forth material information concerning the underlying assets, including, where applicable, information as to the amount and number of delinquent and defaulted loans or receivables.

22. In the case of a trust that offers and sells certificates in a registered public offering, the trustee, the servicer or the sponsor will file such periodic reports as may be required to be filed under the Securities Exchange Act of 1934. Although some trusts that offer certificates in a public offering will file quarterly reports on Form 10–Q and Annual Reports on Form 10–K, many trusts obtain, by application to the Securities and Exchange Commission, a complete exemption from the requirement to file quarterly reports on Form 10–Q and a modification of the disclosure requirements for annual reports on Form 10–K. If such an exemption is obtained, these trusts normally would continue to have the obligation to file current reports on Form 8–K to report material developments concerning the trust and the certificates. While the Securities and Exchange Commission's interpretation of the periodic reporting requirements is subject to change, periodic reports concerning a trust will be filed to the extent required under the Securities Exchange Act of 1934.

23. At or about the time distributions are made to certificateholders, a report will be delivered to the trustee as to the status of the trust and its assets, including underlying obligations. Such report will typically contain information regarding the trust's assets, payments received or collected by the servicer, the amount of prepayments, delinquencies, servicer advances, defaults and foreclosures, the amount of any payments made pursuant to any credit support, and the amount of compensation payable to the servicer. Such report also will be delivered to or made available to the rating agency or agencies that have rated the trust's certificates.

In addition, promptly after each distribution date, certificateholders will receive a statement prepared by the trustee summarizing information regarding the trust and its assets. Such statement will include information regarding the trust and its assets, including underlying receivables. Such statement will typically contain information regarding payments and prepayments, delinquencies, the remaining amount of the guaranty or other credit support and a breakdown of payments between principal and interest.

Secondary Market Transactions

24. It is Kidder's normal policy to attempt to make a market for securities for which it is lead or co-managing underwriter, and it is Kidder's intention to attempt to make a market for any certificates for which Kidder is lead or comanaging underwriter.

Retroactive Relief

25. Kidder represents that it has engaged in transactions related to mortgage-backed and asset-backed securities based on the assumption that retroactive relief would not be granted. However, since February 13, 1989, it is possible that some transactions may have occurred that would be prohibited. For example, because many certificates are held in street or nominee name, it is not always possible to identify whether the percentage interest of plans in a trust is or is not "significant" for purposes of the Department's regulation relating to the definition of plan assets (29 CFR 2510.3–101(f)). These problems are compounded as transactions occur in the secondary market. In addition, with respect to the "publicly offered security" exception contained in that regulation (29 CFR 2510.3–101(b)), it is difficult to determine whether each purchaser of a certificate is independent of all other purchasers.

Summary

26. In summary, the applicant represents that the transactions for which exemptive relief is requested satisfy the statutory criteria of section 408(a) of the Act due to the following:

(a) The trusts contain "fixed pools" of assets. There is little discretion on the part of the trust sponsor to substitute receivables contained in the trust once the trust has been formed;

(b) Certificates in which plans invest will have been rated in one of the three highest rating categories by S&P's, Moody's, D&P or Fitch. Credit support will be obtained to the extent necessary to attain the desired rating;

(c) All transactions for which Kidder seeks exemptive relief will be governed by the pooling and servicing agreement, which is made available to plan fiduciaries for their review prior to the plan's investment in certificates;

(d) Exemptive relief from sections 406(b) and 407 for sales to plans is substantially limited; and

(e) Kidder has made, and anticipates that it will continue to make, a secondary market in certificates.

Discussion of Proposed Exemption

I. Differences between Proposed Exemption and Class Exemption PTE 83–1

The exemptive relief proposed herein is similar to that provided in PTE 81–7 [46 FR 7520, January 23, 1981], Class Exemption for Certain Transactions Involving Mortgage Pool Investment Trusts, amended and restated as PTE 83–1 [48 FR 895, January 7, 1983].

PTE 83–1 applies to mortgage pool investment trusts consisting of interest-bearing obligations secured by first or second mortgages or deeds of trust on single-family residential property. The exemption provides relief from sections 406(a) and 407 for the sale, exchange or transfer in the initial issuance of mortgage pool certificates between the trust sponsor and a plan, when the sponsor, trustee or insurer of the trust is a party-in-interest with respect to the plan, and the continued holding of such certificates, provided that the conditions set forth in the exemption are met. PTE 83–1 also provides exemptive relief from section 406(b)(1) and (b)(2) of the Act for the above-described transactions when the sponsor, trustee or insurer of the trust is a fiduciary with respect to the plan assets invested in such certificates, provided that additional conditions set forth in the exemption are met. In particular, section 406(b) relief is conditioned upon the approval of the transaction by an independent fiduciary. Moreover, the total value of certificates purchased by a plan must not exceed 25 percent of the amount of the issue, and at least 50 percent of the aggregate amount of the issue must be acquired by persons independent of the trust sponsor, trustee or insurer. Finally, PTE 83–1 provides conditional exemptive relief from section 406(a) and (b) of the Act for transactions in connection with the servicing and operation of the mortgage trust.

Under PTE 83–1, exemptive relief for the above transactions is conditioned

upon the sponsor and the trustee of the mortgage trust maintaining a system for insuring or otherwise protecting the pooled mortgage loans and the property securing such loans, and for indemnifying certificateholders against reductions in pass-through payments due to defaults in loan payments or property damage. This system must provide such protection and indemnification up to an amount not less than the greater of one percent of the aggregate principal balance of all trust mortgages or the principal balance of the largest mortgage.

The exemptive relief proposed herein differs from that provided by PTE 83-1 in the following major respects: (1) The proposed exemption provides individual exemptive relief rather than class relief; (2) The proposed exemption covers transactions involving trusts containing a broader range of assets than single-family residential mortgages; (3) Instead of requiring a system for insuring the pooled receivables, the proposed exemption conditions relief upon the certificates having received one of the three highest ratings available from S&P's, Moody's, D&P or Fitch (insurance or other credit support would be obtained only to the extent necessary for the certificates to attain the desired rating); and (4) The proposed exemption provides more limited section 406(b) and section 407 relief for sales transactions.

II. Ratings of Certificates

After consideration of the representations of the applicant and information provided by S&P's, Moody's, D&P and Fitch, the Department has decided to condition exemptive relief upon the certificates having attained a rating in one of the three highest generic rating categories from S&P's, Moody's, D&P or Fitch. The Department believes that the rating condition will permit the applicant flexibility in structuring trusts containing a variety of mortgages and other receivables while ensuring that the interests of plans investing in certificates are protected. The Department also believes that the ratings are indicative of the relative safety of investments in trusts containing secured receivables. The Department is conditioning the proposed exemptive relief upon each particular type of asset-backed security having been rated in one of the three highest rating categories for at least one year and having been sold to investors other than plans for at least one year.[20]

III. Limited Section 406(b) and Section 407(a) Relief for Sales

Kidder represents that in some cases a trust sponsor, trustee, servicer, insurer, and obligor with respect to receivables contained in a trust, or an underwriter of certificates may be a pre-existing party in interest with respect to an investing plan.[21] In these cases, a direct or indirect sale of certificates by that party in interest to the plan would be a prohibited sale or exchange of property under section 406(a)(1)(A) of the Act.[22] Likewise, issues are raised under section 406(a)(1)(D) of the Act where a plan fiduciary causes a plan to purchase certificates where trust funds will be used to benefit a party in interest.

Additionally, Kidder represents that a trust sponsor, servicer, trustee, insurer, and obligor with respect to receivables contained in a trust, or an underwriter of certificates representing an interest in a trust may be a fiduciary with respect to an investing plan. Kidder represents that the exercise of fiduciary authority by any of these parties to cause the plan to invest in certificates representing an interest in the trust would violate section 406(b)(1), and in some cases section 406(b)(2), of the Act.

Moreover, Kidder represents that to the extent there is a plan asset "look through" to the underlying assets of a trust, the investment in certificates by a plan covering employees of an obligor under receivables contained in a trust may be prohibited by sections 406(a) and 407(a) of the Act.

After consideration of the issues involved, the Department has determined to provide the limited sections 406(b) and 407(a) relief as specified in the proposed exemption.

[20] In referring to different "types" of asset-backed securities, the Department means certificates representing interests in trusts containing different "types" of receivables, such as single family residential mortgages, multi-family residential mortgages, commercial mortgages, home equity loans, auto loan receivables, installment obligations for consumer durables secured by purchase money security interests, etc. The Department intends this condition to require that certificates in which a plan invests are of the type that have been rated (in one of the three highest generic rating categories by S&P's, D&P, Fitch or Moody's) and purchased by investors other than plans for at least one year prior to the plan's investment pursuant to the proposed exemption. In this regard, the Department does not intend to require that the particular assets contained in a trust must have been "seasoned" (e.g., originated at least one year prior to the plan's investment in the trust).

[21] In this regard, we note that the exemptive relief proposed herein is limited to certificates with respect to which Kidder or any of its affiliates is either (a) the sole underwriter or manager or comanager of the underwriting syndicate, or (b) a selling or placement agent.

[22] "The applicant represents that where a trust sponsor is an affiliate of Kidder, sales to plans by the sponsor may be exempt under PTE 75-1, Part II (relating to purchases and sales of securities by broker-dealers and their affiliates), if Kidder is not a fiduciary with respect to plan assets to be invested in certificates.

FOR FURTHER INFORMATION CONTACT: Mrs. B.S. Scott of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

BT Securities Corporation (BT Securities), Located in New York, New York

[Application No. D-7938]

Proposed Exemption

I. Transactions

A. Effective December 29, 1988, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A.(1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[23]

B. Effective December 29, 1988, the restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the

[23] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3-21(c).

certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) The plan is not an Excluded Plan;

(ii) solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) a plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity.[24] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraphs B.(1)(i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B.(1) or (2).

C. Effective December 29, 1988, the restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust; provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.[25]

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a "qualified administrative fee" as defined in section III.S.

D. Effective December 29, 1988, the restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2)(F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

II. General Conditions

A. The relief provided under part I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is in one of the three highest generic rating categories from either Standard & Poor's Corporation (S&P's), Moody's Investors Service, Inc. (Moody's), Duff & Phelps, Inc. (D&P) or Fitch Investors Service, Inc. (Fitch);

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith; and

(6) The plan investing in such certificates is an "accredited investor" as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, or any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under part I, if the provision of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

III. Definitions

For purposes of this exemption:

A. *"Certificate"* means:

[24] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[25] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

(1) A certificate—

(a) That represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) A certificate denominated as a debt instrument—

(a) That represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) within the meaning of section 860D(a) of the Internal Revenue Code of 1986; and

(b) That is issued by and is an obligation of a trust; with respect to certificates defined in (1) and (2) for which BT Securities or any of its affiliates is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this exemption, references to "certificates representing an interest in a trust" include certificates denominated as debt which are issued by a trust.

B. *"Trust"* means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either

(a) Secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association);

(b) Secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in section III.T);

(c) Obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and commercial real property, (including obligations secured by leasehold interests on commercial real property);

(d) Obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in section III.U);

(e) "Guaranteed governmental mortgage pool certificates," as defined in 29 CFR 2510.3–101(i)(2);

(f) Fractional undivided interests in any of the obligations described in clauses (a)–(e) of this section B.(1);

(2) Property which had secured any of the obligations described in section B.(1);

(3) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are made to certificateholders; and

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements with respect to any obligations described in section B.(1).

Notwithstanding the foregoing, the term "trust" does not include any investment pool unless: (i) The investment pool consists only of assets of the type which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating categories by S&P's, Moody's, D & P or Fitch for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. *"Underwriter"* means:

(1) BT Securities;

(2) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with BT Securities; or

(3) Any member of an underwriting syndicate or selling group of which BT Securities or a person described in (2) is a manager or co-manager with respect to the certificates.

D. *"Sponsor"* means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. *"Master Servicer"* means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. *"Subservicer"* means an entity which, under the supervision of and on behalf of the master servicer, services loans contained in the trust, but is not a party to the pooling and servicing agreement.

G. *"Servicer"* means any entity which services loans contained in the trust, including the master servicer and any subservicer.

H. *"Trustee"* means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. *"Insurer"* means the insurer or guarantor of, or provider of other credit support for, a trust.

Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. *"Obligor"* means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, "obligor" shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. *"Excluded Plan"* means any plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

L. *"Restricted Group"* with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust; or

(7) Any affiliate of a person described in (1)–(6) above.

M. "*Affiliate*" of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. *"Control"* means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be "independent" of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. *"Sale"* includes the entrance into a forward delivery commitment (as defined in section Q below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. *"Forward delivery commitment"* means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificate from, the other party).

R. *"Reasonable compensation"* has the same meaning as that term is defined in 29 CFR 2550.408c–2.

S. "Qualified Administrative Fee" means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) The amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. *"Qualified Equipment Note Secured By A Lease"* means an equipment note:

(a) Which is secured by equipment which is leased;

(b) Which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(c) With respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as the trust would have if the equipment note were secured only by the equipment and not the lease.

U. *"Qualified Motor Vehicle Lease"* means a lease of a motor vehicle where:

(a) The trust holds a security interest in the lease;

(b) The trust holds a security interest in the leased motor vehicle; and

(c) The trust's security interest in the leased motor vehicle is at least as protective of the trust's rights as the trust would receive under a motor vehicle installment loan contract.

V. *"Pooling and Servicing Agreement"* means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, "Pooling and Servicing Agreement" also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

EFFECTIVE DATES: This exemption, if granted, will be effective as of December 29, 1988.

Summary of Facts and Representations

1. BT Securities, a wholly-owned subsidiary of Bankers Trust New York Corporation (BTNY), is a broker-dealer registered with the Securities and Exchange Commission and under the laws of all fifty states and is a member of the National Association of Securities Dealers, Inc. BT Securities represents that it was authorized by the Federal Reserve Board, by orders dated April 30, 1987, July 14, 1987, January 18, 1989, September 21, 1989, and October 30, 1989, to underwrite and deal in a variety of securities including corporate bonds and asset-backed securities of various types. BT Securities is presently engaged in the business of underwriting and dealing in such asset-backed securities. BTNY conducts its activites in the United States and worldwide through a variety of subsidiaries, including Bankers Trust Company, New York, New York (BT Co), which is among the largest commercial banks in the United States. BT Securities, BT Co and their affiliates conduct a worldwide financial services business that includes commerical banking and merchant banking, in the course of which a wide range of securities underwriting, dealing and placement activities are conducted. In the United States, BT Co makes, buys and sells mortgage loans and other loans and BT Securities underwrites and trades mortgage-backed and other asset-backed securities and both entities provide related investment banking and financial advisory services.

Trust Assets

2. BT Securities seeks exemptive relief to permit plans to invest in pass-through certificates representing undivided interests in the following categories of trusts: (1) Single and multi-family residential or commercial mortgage investment trusts; [26] (2) motor vehicle receivable investment trusts; (3) consumer or commercial receivables investment trusts; and (4) guaranteed governmental mortgage pool certificate investment trusts." [27]

3. Commercial mortgage investment trusts may include mortgages on ground leases of real property. Commercial mortgages are frequently secured by ground leases on the underlying property, rather than by fee simple interests. The separation of the fee simple interest and the ground lease interest is generally done for tax reasons. Properly structured, the pledge of the ground lease to secure a mortgage provides a lender with the same level of security as would be provided by a pledge of the related fee simple interest. In all cases, the terms of any ground lease to secure a mortgage will be at least ten years longer than the term of that mortgage.

Trust Structure

4. Each trust is established under a pooling and servicing agreement between a sponsor, a servicer and a trustee. The sponsor or servicer of a trust selects assets to be included in the trust. These assets are receivables which may have been originated by a sponsor or servicer of the trust, by an affiliate of a sponsor or servicer or by an unrelated lender and subsequently acquired by the trust sponsor or servicer.

Prior to the closing date, the sponsor establishes the trust and designates an independent entity as trustee. Prior to or on the closing date, the sponsor conveys to the trust legal title to the assets, and

[26] Prohibited Transaction Class Exemption ("PTE") 83–1 (48 FR 895, January 7, 1983), a class exemption for mortgage pool investment trusts, would generally apply to trusts containing single-family residential mortgages, provided that the applicable conditions of PTE 83–1 are met. BT Securities requests relief for single-family residential mortgages in this exemption because it would prefer one exemption for all trusts of similar structure.

[27] Guaranteed governmental mortgage pool certificates are mortgage-backed securities with respect to which interest and principal payable is guaranteed by the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), or the Federal National Mortgage Association (FNMA). The Department's regulation relating to the definition of plan assets (29 CFR 2510.3–101(i)) provides that where a plan acquires a guaranteed governmental mortgage pool certificate, the plan's assets include the certificate and all of its rights with respect to such certificate under applicable law, but do not, solely by reason of the plan's holding of such certificate, include any of the mortgages underlying such certificate. The applicants are requesting exemptive relief for trusts containing guaranteed governmental mortgage pool certificates because the certificates in the trusts are plan assets.

the trustee issues certificates representing fractional undivided interests in the trust assets. BT Securities, alone or together with other broker-dealers, acts as underwriter or placement agent with respect to the sale of the certificates. Most sales will be either firm commitment underwritings or private placements. In connection with a private placement, BT Securities may act either as agent or principal. BT Securities may also act as the lead underwriter for a syndicate of securities underwriters.

Certificateholders are entitled to receive monthly, quarterly or semi-annual installments of principal and/or interest, or lease payments due on the receivables, adjusted, in the case of payments of interest, to a specified rate—the pass-through rate—which may be fixed or variable. When payments are made on semi-annual basis, funds are not permitted to be commingled with the assets of the servicer for any period longer than would be permitted for a monthly-pay security. A segregated account is established in the name of the trustee (on behalf of certificateholders) to hold funds received between distribution dates. The account is under the sole control of the trustee, who invests the account's assets in short-term securities which have received a rating comparable to the rating assigned to the certificates. In some cases, the servicer may be permitted to make a single deposit into the account once a month. When the servicer makes such monthly deposits, payments received from obligors by the servicer may be commingled with the servicer's assets during the month prior to deposit. In no event will the period of time between receipt of funds by the servicer and deposit of these funds in a segregated account exceed one month. Furthermore, in those cases where distributions are made semi-annually, the servicer will furnish a report on the operation of the trust to the trustee on a monthly basis. At or about the time the report is delivered to the trustee, it will be made available to certificateholders and delivered to or made available to each rating agency that has rated the certificates.

5. Some of the certificates will be multi-class certificates. BT Securities requests exemptive relief for two types of multi-class certificates: "Strip" certificates and "fast-pay/ slow-pay" certificates. Strip certificates are a type of security in which the stream of interest payments on mortgages is split from the flow of principal payments and separate classes of certificates are established, each representing rights to disproportionate payments of principal and interest.[28]

"Fast-pay/slow-pay" certificates involve the issuance of classes of certificates having different or identical stated maturities but different payment schedules. Interest and/or principal payments received on the underlying receivables are distributed first to the class of certificates having the earliest stated maturity of principal and/or earlier payment schedule, and only when that class of certificates have been paid in full (or has received a specified amount) will distributions be made with respect to the second class of certificates. Distributions on certificates having later stated maturities will proceed in like manner until all the certificateholders have been paid in full. The only difference between this multi-class pass-through arrangement and a single-class pass-through arrangement is the order in which distributions are made to certificateholders. In each case, certificateholders will have a beneficial ownership interest in the underlying assets. In neither case will the rights of a plan purchasing certificates be subordinated to the rights of another certificateholder in the event of default on any of the underlying obligations. In particular, if the amount available for distribution to certificateholders is less than the amount required to be so distributed, all certificateholders will share in the amount distributed on a pro rata basis.[29]

6. For tax reasons, the trust must be maintained as an essentially passive entity. Therefore, both the sponsor's discretion and the servicer's discretion with respect to assets included in a trust are severely limited. Pooling and servicing agreements provide for substitution of assets by the sponsor only in the event of defects in loan or lease documentation discovered within a relatively short time after issuance of trust certificates (within 120 days, except in the case of obligations having an original term of 30 years in which case the period will not exceed two years). BT Securities represents that the sponsor's "right of substitution" is in effect a remedy for certificateholders in the event of the sponsor's breach of its warranty or representations regarding the assets in a trust (for example, where a defect in title to an asset is discovered after its inclusion in the trust). The pooling and servicing agreement will impose restrictions on substituted receivables to ensure that the substituted receivables have payment characteristics substantially similar to those of the replaced receivables and are at least as creditworthy as the replaced receivables.

In some cases, the affected receivable would be repurchased, with the purchase price applied as a payment on the affected receivable and passed through to certificateholders.

Parties to Transactions

7. The *originator* of a receivable is the entity that initially lends money to a borrower (obligor), such as a homeowner or automobile purchaser, or leases property to the lessee. The originator may either retain a receivable in its portfolio or sell it to a purchaser, such as a trust sponsor.

Originators of receivables included in the trusts will be financial institutions experienced in the origination of receivables of the type included in a trust. Each trust may contain assets of one or more originators. The originator of the receivables may also function as the trust sponsor or servicer.

8. The duties of a trust *sponsor* are typically limited to depositing receivables in a trust in exchange for certificates issued by the trust that are then sold to investors. The sponsor of a trust typically selects the trustee.

9. The *trustee* of a trust is the legal owner of the obligations in the trust. The trustee is also a party to or beneficiary of all the documents and instruments deposited in the trust, and as such is responsible for enforcing all the rights created thereby in favor of certificateholders.

The trustee will be an independent entity, and therefore will be unrelated to BT Securities, the trust sponsor or the servicer. BT Securities represents that the trustee will be a substantial financial institution experienced in trust activities. The trustee receives a fee for its services, which will be paid by the servicer, sponsor or out of the trust assets. For example, the trustee's fees may be paid out of investment earnings on undistributed cash or from specified amounts on deposit in the trust, as is the case with the servicer's compensation. The method of compensating the trustee

[28] It is the Department's understanding that where a plan invests in REMIC "residual" interest certificates to which this exemption applies, some of the income received by the plan as a result of such investment may be considered unrelated business taxable income to the plan, which is subject to income tax under the Code. The Department emphasizes that the prudence requirement of section 404(a)(1)(B) of the Act would require plan fiduciaries to carefully consider this and other tax consequences prior to causing plan assets to be invested in certificates pursuant to this exemption.

[29] If a trust issues subordinated certificates, holders of such subordinate certificates may not share in the amount distributed on a pro rata basis. The Department notes that the exemption does not provide relief for plan investment in such subordinated certificates.

will be specified in the pooling and servicing agreement and disclosed in the prospectus or private placement memorandum relating to the offering of the certificates.

10. The *servicer* of a trust administers the receivables on behalf of the certificateholders. The servicer's functions typically involve, among other things, notifying borrowers of amounts due on receivables, maintaining records of payments received on receivables and instituting foreclosure or similar proceedings in the event of default. In cases where a pool of receivables has been purchased from a number of different originators and deposited in a trust, it is common for the receivables to be "subserviced" by their respective originators and for a single entity to "master service" the pool of receivables on behalf of the owners of the related series of certificates. Where this arrangement is adopted, a receivable continues to be serviced from the perspective of the borrower by the local subservicer, while the investor's perspective is that the entire pool of receivables is serviced by a single, central master servicer who collects payments from the local subservicers and passes them through to certificateholders.

In most cases, the originator and servicer of receivables to be included in a trust and the sponsor of the trust (though they themselves may be related) will be unrelated to BT Securities. In some cases, however, affiliates of BT Securities may originate or service receivables included in a trust, or may sponsor a trust.

Certificate Price, Pass-Through Rate and Fees

11. Where the sponsor of a trust is not the originator of receivables included in the trust, the sponsor generally purchases the receivables in the secondary market, either directly from the originator or from another secondary market participant. The price the sponsor pays for a receivable is determined by competitive market forces, taking into account payment terms, interest rate, quality, and forecasts as to future interest rates.

As compensation for the receivables transferred to the trust, the sponsor receives certificates representing the entire beneficial interest in the trust. The sponsor sells these certificates for cash to investors or securities underwriters. In some transactions the sponsor may retain a portion of the certificates for its own account. (In some transactions, the originator may sell receivables to a trust for cash. At the time of the sale, the trustee would sell certificates to the public or to underwriters and use the cash proceeds of the sale to pay the originator for the receivables sold to the trust.)

12. The price of the certificates, both in the initial offering and in the secondary market, is affected by market forces including investor demand, the pass-through interest rate on the certificates in relation to the rate payable on investments of similar types and quality, expectations as to the effect on yield resulting from prepayment of underlying receivables, and expectations as to the likelihood of timely payment.

The pass-through rate for certificates is generally equal to the interest rate on receivables included in the trust minus a specified servicing fee.[30] This rate is generally determined by the same market forces that determine the price of a certificate. There is a direct relationship between the price of certificates and the pass-through rate. For example, if certificates backed by comparable pools of mortgages are sold at different pass-through rates, the certificates having the higher pass-through rate would have a higher purchase price.

13. As compensation for performing its servicing duties, the servicer (who may also be the sponsor, and receive fees for acting in that capacity) will typically retain most or all of the difference between payments received on the receivables and payments payable (at the pass-through rate) to certificateholders. The servicer may receive additional compensation by having the use of the amounts paid on the receivables between the time they are received by the servicer and the time they are due to the trust (which time is set forth in the pooling and servicing agreement). The servicer pays the administrative expenses of servicing the trust, including the trustee's fee, out of its servicing compensation.

The servicer is also compensated to the extent it may provide credit enhancement to the trust or otherwise arrange to obtain credit support from another party. This "credit support fee" may be aggregated with other servicing fees, and is paid out of the payments received on the receivables in excess of the pass-through payments made to certificateholders. In some transactions, however, the "credit support fee" is paid in a lump sum at the time the trust is established.

[30] The pass-through rate on certificates representing interests in trusts holding leases is determined by breaking down lease payments into "principal" and "interest" components based on an implicit interest rate.

14. The servicer may be entitled to retain certain administrative fees paid by a third party, usually the obligor. These administrative fees fall into three categories: (a) Prepayment fees; (b) late payment and payment extension fees and other fees related to the modification of the terms of an obligation as permitted by the provisions of the pooling and servicing agreement (including the partial release of collateral to the extent provided therein); and (c) fees and charges associated with foreclosure or repossession, the management of foreclosed or repossessed property, or any conversion of a secured obligation into cash proceeds, upon default of an obligation held by a trust.

Compensation payable to the servicer will be set forth or referred to in the pooling and servicing agreement and described in reasonable detail in the prospectus or private placement memorandum relating to the certificates.

15. Payments on receivables may be made by obligors to the servicer at various times during the period preceding any date on which pass-through payments to the trust are due. In some cases, the pooling and servicing agreement may permit the servicer to place these payments in non-interest bearing accounts in itself or to commingle such payments with its own funds prior to the distribution dates. In these cases, the servicer would be entitled to the benefit derived from the use of the funds between the date of payment on a receivable and the pass-through date. Commingled payments may not be protected from the creditors of the servicer in the event of the servicer's bankruptcy. In the event payments on receivables are held in a non-interest bearing account or are commingled with the servicer's own funds, the servicer will be required to deposit such payments by a date specified in the pooling and servicing agreement into an account from which the trustee makes payments to certificateholders.

16. BT Securities will receive a fee in connection with the securities underwriting or private placement of certificates. In a firm commitment underwriting, this fee would consist of the difference between what BT Securities receives for the certificates that it distributes and what it pays the sponsor for those certificates. In a private placement, the fee normally takes the form of an agency commission paid by the sponsor. For some public offerings, BT Securities may sell certificates on an agency basis in a best efforts underwriting. In these case, BT

Securities would receive an agency commission. In some private placements, BT Securities may buy certificates as principal, in which case its fee would consist of the difference between what it receives for the certificates that it sells and what it pays the sponsor for these certificates.

Purchase of Receivables by Servicer

17. The applicant represents that as the principal amount of the receivables in a trust is reduced by payment or repurchase, the cost of administering the trust generally increases, making the servicing of the trust prohibitively expensive at some point. Consequently, the pooling and servicing agreement generally provides that the servicer may purchase the receivables included in the trust when the aggregate unpaid balance payable on the receivables is reduced to a specified percentage (usually 5 or 10 percent) of the initial balance.

The purchase price of a receivable is specified in the pooling and servicing agreement and will be at least equal to the unpaid principal balance on the receivable plus accrued interest, less any unreimbursed advances of principal made by the servicer.

Certificate Ratings

18. The certificates will have received one of the three highest ratings available from either S&P's, Moody's, D&P or Fitch. Insurance or other credit support (such as surety bonds, letters of credit, reserve funds or guarantees) will be obtained by the trust sponsor to the extent necessary for the certificates to attain the desired rating. The amount of the credit support is set by the rating agencies at a level that is a multiple of the very worst historical credit loss experience for receivables of the type included in the trust.

Provision of Credit Support

19. In some cases, the master servicer, or an affiliate of the master servicer, may provide credit support to the trust (i.e. act as an insurer). In these cases, the master servicer, in its capacity as servicer, will first advance funds in a timely manner and to the full extent required by the pooling and servicing agreement if it determines that such advances will be recoverable out of late payments by the obligors or, in the case of a trust which issues subordinated certificates, from amounts otherwise distributable to holders of subordinated certificates. Otherwise, the master servicer, as the provider of credit support, will be called upon (by itself as servicer acting on behalf of the trustee, or directly by the trustee) to provide funds to cover such payments to the full extent of its obligations as insurer. In some transactions, however, the master servicer may not be obligated to advance funds, but instead would be called upon to provide funds to cover defaulted payments to the full extent of its obligations as insurer. Moreover, a master servicer typically can recover advances either from the provider of credit support or from future payments on affected assets.

If the master servicer fails to advance funds and fails to call upon the credit support mechanism to provide funds to cover delinquent payments, the trustee may exercise its rights as beneficiary of the credit support to obtain funds under the credit support mechanism. Therefore, in all cases, the independent trustee will be ultimately responsible for deciding when to exercise its rights as beneficiary of that credit support.

When a master servicer advances funds, the amount so advanced is recoverable by the servicer out of future payments on receivables held by the trust to the extent not covered by credit support. However, where the master servicer provides credit support to the trust, there are protections in place to guard against a delay in calling upon the credit support to take advantage of the fact that the dollar limit on the credit support declines as payments on receivables are passed through to investors. These safeguards include the following:

(a) There is often a disincentive to postponing credit losses because the sooner repossession or foreclosure activities are commenced, the more value that can be realized on the security for the obligation;

(b) The master servicer has servicing guidelines which include a general policy as to the allowable delinquency period after which an obligation ordinarily will be deemed uncollectible. The pooling and servicing agreement will require the master servicer to follow its normal servicing guidelines and will set forth the master servicer's general policy as to the period of time after which delinquent obligations ordinarily will be considered uncollectible;

(c) As frequently as payments are due on the receivables included in the trust (monthly, quarterly or semi-annually, as set forth in the pooling and servicing agreement), the master servicer is required to report to the independent trustee the amount of all past-due payments and the amount of all servicer advances, along with other current information as to collections on the receivables and draws upon the credit support. Further, the master servicer is required to deliver to the trustee annually a certificate of an executive officer of the master servicer stating that a review of the servicing activities has been made under such officer's supervision, and either stating that the master servicer has fulfilled all of its obligations under the pooling and servicing agreement or, if the master servicer has defaulted under any of its obligations, specifying any such default. The master servicer's reports are reviewed at least annually by independent accountants to ensure that the master servicer is following its normal servicing standards and that the master servicer's reports conform to the master servicer's internal accounting records. The results of the independent accountants' review are delivered to the trustee;

(d) The credit support has a "floor" dollar amount that protects investors against the possibility that a large number of credit losses might occur towards the end of the life of the trust, whether due to servicer advances or any other cause. Once the floor amount has been reached, the servicer lacks an incentive to postpone the recognition of credit losses because the credit support amount becomes a fixed dollar amount, subject to reduction only for actual draws. From the time that the floor amount is effective until the end of the life of the trust, there are no proportionate reductions in the credit support amount caused by reductions in the pool principal balance. Indeed, since the floor is a fixed dollar amount, the amount of credit support ordinarily increases as a percentage of the pool principal balance during the period that the floor is in effect.

This last safeguard would apply only where the master servicer and the insurer are affiliated or are the same entity. In the case of a trust that issues subordinated certificates which may be held by the servicer or its affiliates, the representations in paragraph (d) above would not apply insofar as the definition of insurer contained in section III.I. of the operative language of the proposed exemption states that a person is not an insurer solely because it holds subordinated certificates.

Disclosure

20. In connection with the original issuance of certificates, the prospectus or private offering memorandum will be furnished to investing plans. The prospectus or private offering memorandum will contain information material to a fiduciary's decision to invest in the certificates, including:

(a) Information concerning the certificates, including payment terms, tax consequences of owning and selling

certificates, the legal investment status and rating of the certificates, and the material risk factors with respect to an investment in the certificates;

(b) Information about the underlying receivables, including the types of receivables, the diversification of the receivables, their payment terms, and legal aspects of the receivables;

(c) Information about the servicing of the receivables, including the identity of the master servicer and servicing compensation;

(d) Information about the sponsor of the trust;

(e) The material terms of the pooling and servicing agreement; and

(f) Information about the scope and nature of the secondary market, if any, for the certificates.

21. Certificateholders will be provided with information concerning the amount of principal and interest to be paid on certificates at least as frequently as distributions are made to certificateholders. Certificateholders will also be provided with periodic information statements setting forth material information concerning the underlying assets, including, where applicable, information as to the amount and number of delinquent and defaulted loans or receivables.

22. In the case of a trust that offers and sells certificates in a registered public offering, the trustee, the servicer or the sponsor will file such periodic reports as may be required to be filed under the Securities Exchange Act of 1934. Although some trusts that offer certificates in a public offering will file quarterly reports on Form 10–Q and Annual Reports on Form 10–K, many trusts obtain, by application to the Securities and Exchange Commission, a complete exemption from the requirement to file quarterly reports on Form 10–Q and a modification of the disclosure requirements for annual reports on Form 10–K. If such an exemption is obtained, these trusts normally would continue to have the obligation to file current reports on Form 8–K to report material developments concerning the trust and the certificates. While the Securities and Exchange Commission's interpretation of the periodic reporting requirements is subject to change, periodic reports concerning a trust will be filed to the extent required under the Securities Exchange Act of 1934.

23. At or about the time distributions are made to certificateholders, a report on operation of the trust, including information on any delinquencies or advances by servicers, will be made to the trustee and upon request, any rating agencies that rated the certificates. These reports will be available to investors and the availability of the reports will be made known to potential investors. In addition, promptly after each distribution date, certificateholders will receive a statement summarizing information regarding the trust and its assets. Such statement will include information regarding payments and prepayments, delinquencies and foreclosures.

Secondary Market Transactions

24. BT Securities has historically made a market in mortgage-backed and asset-backed securities of the type described in the exemption request. BT Securities anticipates that it will continue to make such a market in the future, subject to market conditions and applicable law.

Retroactive Relief

25. BT Securities represents that it has engaged in transactions related to mortgage-backed and asset-backed securities and that it is possible that some transactions may have occurred since December 29, 1988 that arguably would be prohibited.

Summary

26. In summary, the applicant represents that the transactions for which exemptive relief is requested satisfy the statutory criteria of section 408(a) of the Act due to the following:

(a) The trusts contain "fixed pools" of assets. There is little discretion on the part of the trust sponsor to substitute receivables contained in the trust once the trust has been formed;

(b) Certificates in which plans invest will have been rated in one of the three highest rating categories by S&P's, Moody's, D&P or Fitch. Credit support will be obtained to the extent necessary to attain the desired rating;

(c) All transactions for which BT Securities seeks exemptive relief will be governed by the pooling and servicing agreement, which is made available to plan fiduciaries for their review prior to the plan's investment in certificates;

(d) Exemptive relief from sections 406(b) and 407 for sales to plans is substantially limited; and

(e) BT Securities has made, and anticipates that it will continue to make, a secondary market in certificates.

Discussion of Proposed Exemption

I. Comparison of Proposed Exemption with Class Exemption PTE 83–1

The exemptive relief proposed herein is similar to that at provided in PTE 81–7 [46 FR 7520, January 23, 1981], Class Exemption for Certain Transactions Involving Mortgage Pool Investment Trusts, amended and restated as PTE 83–1 [48 FR 895, January 7, 1983].

PTE 83–1 applies to mortgage pool investment trusts consisting of interest-bearing obligations secured by first or second mortgages or deeds of trust on single-family residential property. The exemption provides relief from sections 406(a) and 407 for the sale, exchange or transfer in the initial issuance of mortgage pool certificates between the trust sponsor and a plan, when the sponsor, trustee or insurer of the trust is a party-in-interest with respect to the plan, and the continued holding of such certificates, provided that the conditions set forth in the exemption are met. PTE 83–1 also provides exemptive relief from section 406(b)(1) and (b)(2) of the Act for the above-described transactions when the sponsor, trustee or insurer of the trust is a fiduciary with respect to the plan assets invested in such certificates, provided that additional conditions set forth in the exemption are met. In particular, section 406(b) relief is conditioned upon the approval of the transaction by an independent fiduciary. Moreover, the total value of certificates purchased by a plan must not exceed 25 percent of the amount of the issue, and at least 50 percent of the aggregate amount of the issue must be acquired by persons independent of the trust sponsor, trustee or insurer. Finally, PTE 83–1 provides conditional exemptive relief from section 406(a) and (b) of the Act for transactions in connection with the servicing and operation of the mortgage trust.

Under PTE 83–1, exemptive relief for the above transactions is conditioned upon the sponsor and the trustee of the mortgage trust maintaining a system for insuring or otherwise protecting the pooled mortgage loans and the property securing such loans, and for indemnifying certificateholders against reductions in pass-through payments due to defaults in loan payments or property damage. This system must provide such protection and indemnification up to an amount not less than the greater of one percent of the aggregate principal balance of all trust mortgages or the principal balance of the largest mortgage.

The exemptive relief proposed herein differs from that provided by PTE 83–1 in the following major respects: (1) The proposed exemption provides individual exemptive relief rather than class relief; (2) The proposed exemption covers transactions involving trusts containing a broader range of assets than single-family residential mortgages; (3) Instead of requiring a system for insuring the pooled receivables, the proposed

exemption conditions relief upon the certificates having received one of the three highest ratings available from S&P's, Moody's, D&P or Fitch (insurance or other credit support would be obtained only to the extent necessary for the certificates to attain the desired rating); and (4) The proposed exemption provides more limited section 406(b) and section 407 relief for sales transactions.

II. Ratings of Certificates

After consideration of the representations of the applicant and information provided by S&P's, Moody's, D&P and Fitch, the Department has decided to condition exemptive relief upon the certificates having attained a rating in one of the three highest generic rating categories from S&P's, Moody's, D&P or Fitch. The Department believes that the rating condition will permit the applicant flexibility in structuring trusts containing a variety of mortgages and other receivables while ensuring that the interests of plans investing in certificates are protected. The Department also believes that the ratings are indicative of the relative safety of investments in trusts containing secured receivables. The Department is conditioning the proposed exemptive relief upon each particular type of asset-backed security having been rated in one of the three highest rating categories for at least one year and having been sold to investors other than plans for at least one year.[31]

III. Limited Section 406(b) and Section 407(a) Relief for Sales

The applicant represents that in some cases a trust sponsor, trustee, servicer, insurer, an obligor with respect to receivables contained in a trust, or an underwriter of certificates may be a pre-existing party in interest with respect to an investing plan.[32] In these cases, a direct or indirect sale of certificates by that party in interest to the plan would be a prohibited sale or exchange of property under section 406(a)(1)(A) of the Act.[33] Likewise, issues are raised under section 406(a)(1)(D) of the Act where a plan fiduciary causes a plan to purchase certificates where trust funds will be used to benefit a party in interest.

Additionally, the applicant represents that a trust sponsor, servicer, trustee, insurer, an obligor with respect to receivables contained in a trust, or an underwriter of certificates representing an interest in a trust may be a fiduciary with respect to an investing plan. The applicant represents that the exercise of fiduciary authority by any of these parties to cause the plan to invest in certificates representing an interest in the trust would violate section 406(b)(1), and in some cases section 406(b)(2), of the Act.

Moreover, the applicant represents that to the extent there is a plan asset "look through" to the underlying assets of a trust, the investment in certificates by a plan covering employees of an obligor with respect to receivables contained in a trust may be prohibited by sections 406(a) and 407(a) of the Act.

After consideration of the issues involved, the Department has determined to provide the limited sections 406(b) and 407(a) relief as specified in the proposed exemption.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 13th day of February, 1990.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

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BILLING CODE 4510-29-M

[31] In referring to different "types" of asset-backed securities, the Department means certificates representing interests in trusts containing different "types" of receivables, such as single family residential mortgages, multi-family residential mortgages, commercial mortgages, home equity loans, auto loan receivables, installment obligations for consumer durables secured by purchase money security interests, etc. The Department intends this condition to require that certificates in which a plan invests are of the type that have been rated (in one of the three highest generic rating categories by S&P's, Moody's, D&P and Fitch) and purchased by investors other than plans for at least one year prior to the plan's investment pursuant to the proposed exemption. In this regard, the Department does not intend to require that the particular assets contained in a trust must have been "seasoned" (e.g., originated at least one year prior to the plan's investment in the trust).

[32] In this regard, we note that the exemptive relief proposed herein is limited to certificates with respect to which BT Securities or any of its affiliates is either (a) the sole underwriter or manager or comanager of the underwriting syndicate, or (b) a selling or placement agent.

[33] The applicant represents that where a trust sponsor is an affiliate of BT Securities, sales to plans by the sponsor may be exempt under PTE 75-1, part II (relating to purchases and sales of securities by broker-dealers and their affiliates), if BT Securities is not a fiduciary with respect to plan assets to be invested in certificates.

NATIONAL SCIENCE FOUNDATION

Program Solicitation; Private Sector Partnerships to Improve Science and Mathematics Education

This document is one of a series of targeted program solicitations inviting proposals directed toward problems and opportunities of high priority within mathematics, science and technology education. This solicitations is particularly intended to encourage efforts to broaden the content of science and mathematics education by incorporating scientific and technological inputs from the private sector.

These solicitations are intended to supplement, not supplant, the current guidelines and announcements that

describe the broad range of interests of NSF's Division of Teacher Preparation and Enhancement (NSF publication 87–10) and Division of Materials Development, Research, and Informal Science Education (NSF 88–29).

National Science Foundation
Directorate for Science and Engineering Education
Division of Teacher Preparation & Enhancement
Submission Deadline:
Formal Proposals: April 16, 1990

Private Sector Partnerships to Improve Science and Mathematics Education

National Science Foundation

The National Science Foundation (NSF) provides awards for research in the sciences and engineering. The awardee is wholly responsible for the conduct of such research and preparation of the results for publication. The Foundation, therefore, does not assume responsibility for such findings or their interpretation.

The Foundation welcomes proposals on behalf of all qualified scientists and engineers, and strongly encourages women, minorities, and persons with disabilities to compete fully in any of the research and research-related programs described in this document.

In accordance with Federal statutes and regulations and NSF policies, no person on grounds of race, color, age, sex, national origin, or disability shall be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity receiving financial assistance from the National Science Foundation.

Facilitation Awards for Handicapped Scientists and Engineers (FAH) provide funding for special assistance or equipment to enable persons with disabilities (investigators and other staff, including student research assistants) to work on an NSF project. See the FAH program announcement (NSF Publication 84–62, rev. 5/87), or contact the FAH Coordinator in the Directorate for Scientific, Technological, and International Affairs. The telephone number is (202) 357–7456.

The Foundation has TDD (Telephone Device for the Deaf) capability, which enables individuals with hearing impairment to communicate with the Divsion of Personnel and Management about NSF programs, employment, or general information. The telephone number is (202) 357–7492.

This program is described in the Catalog of Federal Domestic Assistance category 47.066, Teacher Preparation and Enhancement.

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Introduction

In today's world, the prosperity of a nation is determined by the educational attainments of its populace. Therefore, the well-documented and much-publicized deficiencies in educational achievements of American students compared to those of many other nations are a serious cause of concern. The record in science and mathematics is particularly troublesome to business and industry because of the implications for our international industrial competitiveness.

Two-thirds of the nation's natural scientists, mathematicians, and engineers work in the private sector; they carry out three-quarters of the nation's research and development; and they provide the technical marketing and manufacturing skills necessary to make scientific advances useful to society. Consequently, business and industrial firms and other private sector non-educational organizations constitute a major resource for help and advice on the teaching of science, mathematics, and technology.

The National Science Foundation, therefore, encourages and supports the participation of private sector technical personnel and organizations in projects to improve science and mathematics education. This solicitation seeks to focus such private sector resources on the improvement of science and mathematics education through partnerships with schools, school districts, community colleges, four-year colleges and universities, and other educational organizations.

Carefully developed partnerships can make industrial technical knowledge and experience available for the enhancement of science education. To encourage technology-based organizations from the private sector, and the scientists, mathematicians, and engineers they employ, to form these partnerships with educational organizations, the National Science Foundation invites proposals for partial funding of partnership projects.

Partnerships may involve business and industry, formal and informal educational institutions (schools, colleges, universities, museums), and such private sector organizations as professional and scientific societies, business associations, and non-profit research institutions. The primary focus of projects proposed under this solicitation must be the blending of the scientific, technical, organizational, and management skills of the non-educational world with the knowledge and pedagogical expertise of educators. Thus full involvement of private sector people and organizations in both planning and executing the proposed project will be required.

Practicing scientists, mathematicians, engineers, and researchers can strengthen science and mathematics education by helping to define and develop course content which is both sound and relevant to the students' needs, and by providing a view of the demands and opportunities of the workplace of tomorrow. Perhaps most important, these practitioners can help motivate students by sharing the excitement of their real-world, hands-on science and technology experiences.

In addition to the ideas and skills each partner brings to this program, the private sector may participate through such contributions as direct financial support, materials and equipment, use of facilities and computer time, and paid internships for teachers.

Scope and Funding of Partnerships

Projects may be targeted toward any aspect of science and mathematics education in the primary and secondary grades. Of particular interest to this solicitation are those which include significant participation by classroom teachers. Examples of needs that may be addressed by a proposal are:

- Improving the preparation in science and mathematics of prospective elementary teachers;
- Improving elementary science and mathematics teaching;
- Facilitating the entry into teaching careers of undergraduate students majoring in mathematics, science, or engineering;
- Preparing professional mathematicians, scientists, and engineers for teaching careers;

- Promoting involvement in science and mathematics of students from population segments traditionally underrepresented in technically based activities, e.g., females, minorities, and persons with disabilities;
- Developing and implementing integrated science, mathematics, and technology courses;
- Preparing non-baccalaureate-bound students for technological jobs;
- Integrating current applications of science and mathematics into course content;
- Enhancing the "hands on" or laboratory component of science education.

Proposals are solicited also for a limited set of activities in post-secondary science and mathematics education. Examples of topics of special interest at this level are:

- Preparing non-baccalaureate-bound students for technical careers;
- Developing science or mathematics "literacy" courses for students in non-technical majors;
- Promoting adult education for the "scientific literacy" needed for responsible citizenship.

Funding may be requested for one to four years. Funding of any project for more than a total of $400,000 is unlikely, with the average award being about half that amount.

Proposal Format

Proposals submitted in response to this program solicitation should be prepared and submitted in accordance with the guidelines provided in the NSF brochure, Grants for Research and Education in Science and Engineering (GRESE), NSF 83-57, revised 10-89. Single copies of this brochure are available at no cost from the Forms and Publications Unit, phone (202) 357-7668, or via e-mail (Bitnet: pubs@nsf or Internet: pubs@note. nsf.gov).

Number the pages (including forms) serially at the bottom; use the headings below in the order given; single space all typed pages; use photocopies of the forms in the back of this solicitation for all required forms; staple the complete report at upper left corner (do not use plastic or other binders).

Section 1: List of Required Forms

1. NSF Form 1207 (3/89) "Cover Sheet for Proposals to the National Science Foundation

In the blank at upper left (entitled "For Consideration by NSF Organizational Unit") enter "Division of Teacher Preparation & Enhancement"; at the upper right (entitled "Program Announcement/Solicitation No./Closing Date") enter "Private Sector Partnerships Solicitation/April 16, 1990." Fill in the other blanks as required.

The submitting organizations may be two- or four-year colleges; universities; state, regional, or local governmental agencies (including school systems); professional societies; science museums; research institutes; private foundations; private industry; and other for-profit or non-profit organizations engaged in or concerned about science, mathematics or technology education. The Project Director likewise may be from any of such institutions.

To gain maximum benefit from the involvement of industrial or other private sector scientists, mathematicians, and engineers, they should be involved from the initial planning stage. It would therefore be desirable to have such an individual as an "Additional Project Director" if the Project Director is from an educational institution.

2: NSF Form 1267 (11-89) "Proposal Data Sheet, Private Sector Partnerships Program"

Provide your best estimates of the data requested.

3: NSF Form 1030 (1-87) "Proposal Budget"

Complete a separate budget sheet for each full year of the project, beginning from the proposed starting date, followed by a cumulative budget for the whole project. Label each sheet "Year _____" or "Cumulative Budget" at the bottom right corner. Provide any necessary explanation on a "Budget Explanation Page" following each budget form sheet.

Private Sector Partnerships proposal budgets should not include more than a very limited amount (generally less than $10,000) for permanent equipment. Equipment needs beyond that should be obtained through members of the partnership or other sources.

The budget should include travel funds to permit the Project Director, or a designee, to attend a meeting of Project Directors each year of the project. The meetings will likely be held in the Washington, DC area.

4. NSF Form 1269 (12-89) "Cost Sharing Statement"

Part 1. List the financial commitments, either cash or in-kind contributions, from the members of the partnership. These should at least equal the requested NSF funding. In-kind contributions can include such items as cost of teacher released time, waiver of all or part of otherwise approvable overhead, salary value of time spent on partnership activities, or value of contributed equipment, materials, or services.

Part 2. The probability of continuation of the proposed project after cessation of NSF funding is an important consideration in evaluating proposals, so the financial prospects for this should also be addressed.

5. NSF Form 1239 "Statement of Current and Pending Support"

Pending Support includes proposals which have been approved, but for which funds have not yet been received, and proposals which have been submitted but not yet acted upon.

6. NSF Form 1268 (11-89) "Summary of Results From Prior NSF Support"

Information must be provided on any project funded by NSF within the last five years on which any Project Director on this proposal was a Project Director. List Project Director, project title, NSF project number, amount of NSF funding, and project duration. Briefly (one page maximum) summarize the project activities, accomplishments, and findings. Use a separate page for each project.

Section 2: Project Design Narrative

The narrative should include the following components in order. While the number of pages for each item is not fixed, the total narrative *must not* exceed fifteen unreduced single-spaced 8½" x 11" pages (exclusive of the project director biographical material and the supplemental information described in section 3).

Needs

List the project's needs. Widely distributed studies and statistics documenting national science and mathematics education needs should be mentioned only very briefly since they are well known to NSF staff and reviewers, but the basis for determining the local needs that the partnership will address should be described in more detail.

Goals and Objectives

The goals should consist of a few broad statements appropriate to the needs addressed by the proposal. List a number of objectives that will lead to the achievement of each goal.

Activities

Describe in detail the activities proposed to achieve each objective. Activities should be grouped under each objective they are designed to affect. Indicate clearly the roles of the various members of the partnership. Give quantitative data appropriate to the project design, such as the number of

participants expected in a workshop, the number and type of teaching materials to be prepared, or the number of teachers to be placed into internships in industry.

To insure maximum effectiveness for NSF funds, projects should have the potential for broad impact, directly or indirectly. The number of teachers and students affected directly by the project itself is important and should be commensurate with the budget. Also important is the potential for replication of project activities in other locations. Dissemination plans for project findings, conclusions, and materials should be included.

Any substantial effort devoted to development of teaching materials must be justified by an explanation of why existing materials are not satisfactory. If new materials are to be developed, describe the steps planned to ensure their soundness both pedagogically and in technical content. To attain effective utilization of new materials when completed, teachers and administrators representative of those settings in which they are expected to be used should be involved in their preparation.

Evaluation

Describe the procedures planned to determine the extent to which the project was successful in meeting its goals and objectives. The means by which internal evaluation of attainment of various goals and objectives will be carried out should be shown.

Calendar

Provide a calendar of proposed dates on which major activities of the project will begin and end.

Private Sector Involvement

Describe the intellectual partnership that will be formed, and state explicitly the role of the private sector. Summarize the involvement of scientists, mathematicians, engineers, and other professionals in science-related occupations with students and teachers. Describe the administrative mechanisms that will be used to organize and manage the project. List financial and in-kind support on the "Cost-Sharing Statement" form.

Documentation and Dissemination

Describe the manner in which the results of the project will be documented and materials prepared for possible dissemination to other persons or groups.

Scientific and Educational Merit

Explain briefly the relationship of the scientific, mathematical, and technical content of the proposed project to the purposes of this solicitation. Also explain briefly why the particular educational methodology was chosen.

Section 3: Supporting Documents

Project Director Biographers

Provide biographical information (two pages maximum) for each Project Director.

Supplemental Information

Although the narrative (section 2) must be self-contained and make the full case for support, up to fifteen pages of supplemental information may be included in the formal proposal. Examples are letters of support and commitment, institutional information, samples of previously prepared teaching materials, etc. All such items should be on 8½" x 11" single sheets; anything of other size should be copied onto standard paper.

Proposal Submission

Fifteen copies of each proposal, including one copy bearing original signatures, should be mailed to:

Proposal Processing Unit—Room 223, Attention: Private Sector Partnerships, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Only one (1) copy of NSF Form 1225, Information about Principal Investigator/Project Director, should be sent, attached to the original signed proposal.

Processing may be expedited by sending one additional copy (not the official signed copy) of the proposal to Dr. Donald E. Sands, Room 504, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Proposals may also be submitted electronically. For information, contact the Electronic Proposal Submission Program Director, Office of Information Systems (OIS), phone (202) 357–9767, or via e-mail, gstuck@nsf (Bitnet) or gstuck@note.nsf.gov (Internet).

Proposals submitted in response to this solicitation must be:

(1) Received by NSF no later than April 16, 1990;

(2) Postmarked no later than five (5) days prior to the deadline date; or

(3) Sent via commercial overnight mail no later than two (2) days prior to the deadline date to be considered for award.

Proposals submitted electronically will be dated when they enter the NSF system.

Review and processing require approximately six months.

Proposal Review

Proposals will be reviewed in accordance with established Foundation procedures and the four general criteria described in GRESE.

All formal proposals will be evaluated according to standard NSF merit review processes by a combination of experts from schools, colleges and universities, and the private sector. To insure that the reviewers can compare proposals fairly and meaningfully, the projects should be formulated with the following elements in mind and the proposals should follow the indicated format.

Budget and Cost Sharing: Is the budget generally commensurate with the project scope and expected outcomes? Carefully planned and presented? Realistic? Properly balanced between NSF funds and other financial contributions, both cash and inkind?

Project Director Involvement: Are the Project Director or Co-Project Directors likely to be overloaded and unable to devote the required time to this project?

Needs: Are the needs, problems, or issues the project addresses important? Documented? Specifically related to science, mathematics, engineering, technology, education? Appropriate for this NSF programs? Too narrow or too broad? Well-suited to the project personnel's skills and experience? Already solved elsewhere?

Goals and Objectives: Are the goals and objectives clear and well-defined? Relevant to NSF and the Private Sector Partnerships program? Response to the identified needs?

Activities: Is the plan of activities clearly described? Logically directed toward the goals and objectives? A rational outgrowth of good planning by a suitable mix of individuals? Well-suited to the target populations of teachers, students, or others? Effectively laid out for the whole length of the project? Detailed enough to support the proposed budget? Designed to produce definitive and useful models for replication elsewhere? Likely to produce lasting improvements? Sustainable after termination of NSF support? Cognizant of similar projects from which it might might draw information?

Evaluation: How will the attainment of goals and objectives be measured? Individual activities be assessed for effectiveness? Participant reactions and confusions be determined and recorded? Objective evaluation of project success be conducted?

Calendar: Are the time periods indicated by the calendar realistic for the activities to be conducted successfully? Does the schedule fit with

other local factors, such as academic year calendars? Show evidence that all the partners have committee time to the project?

Private Sector Involvement: Since the primary purpose of this program is to enlist private sector scientists, engineers, and mathematicians, and other professionals in science-related fields in improving science, technology, and mathematics education, the nature and extent of their involvement in the proposed project is crucial. Are they major elements in the project. Bringing appropriate skills and experiences to the project? Contributing to content? An integral part of planning and execution? In personal contact with teachers or students? Suitable role models for students? Fully committed to their designated roles?

Documentation and Dissemination: Is provision made for documentation of findings, conclusions and details of successful activities in a way suitable for sharing with others? Are new teaching materials developed to a stage where they can be easily replicated? Will there be effective dissemination of project findings and materials to other persons or groups with similar needs?

Scientific and Educational Merit: Is the scientific, technological, and matematical content appropriate for the target audience? Educational approach sound and reflective of the best current pedagogical research? Planned outcomes of sufficient importance to warrant NSF funding? Project likely to produce significant new techniques, insights, or materials?

Project Personnel and Activity Participants: Are the project directors well qualified? Other project personnel suited for their tasks? Expected activity participants (e.g., teachers in in-service programs, students in mentored projects) appropriate for the project? Participant selection procedure defined and logical?

Supplemental Information. Does the supplemental information confirm statements and plans in the project design? Relate to the project design? Give evidence of the ability and willingness of partners to participate as stated in the project design?

Additional Information

General inquiries should be made to:

Dr. Donald E. Sands, Private Sector Partnerships Program, Directorate for Science and Engineering Education National Science Foundation, 1800 G Street NW, Room 504, Washington, DC 20550, (202) 357–7751, BITNET dsands@nsf. gov.

Notification of Action

Notification of final action on these proposals will normally be mailed within six months. Anonymous copies of reviewers' written evaluations of projects will be included with the notification of final action. To allow time for this proposal evaluation process, proposed projects should not be planned to begin before September 15, 1990.

Upon completion of the project a Final Project Report (NSF Form 98A), including the part IV Summary, will be required. Applicants should review this form prior to proposal submission so that appropriate tracking mechanisms are included in the proposal plan to ensure that complete information will be available at the conclusion of the project.

Further Information on NSF Procedures and Programs

Further information on NSF grant procedures is available in "Grants for Research and Education in Science and Engineering" (NSF 83–57, revised 10–89), which can be obtained by writing to the Forms and Publications, National Science Foundation, Washington, DC 20550. This booklet gives details of NSF grants procedures for research projects and their extension to education projects. A description of the four basic review criteria for research projects is given; the review criteria described in this solicitation are derived from these four criteria and will be used in place of them.

While the Private Sector Partnerships program is specifically designed to highlight opportunities for private sector participation in educational activities, numerous other NSF programs can appropriately involve such participation. Information about other NSF programs can be obtained by requesting copies of specific program announcements from appropriate divisions if known or by requesting addition to the mailing list of the Foundation's monthly Bulletin (write Forms and Publications, Room 232, National Science Foundation, Washington, DC 20550).

The National Science Foundation provides awards for education and research in the sciences, mathematics and engineering. The Foundation welcomes proposals from all qualified educators, scientists, mathematicians, engineers, and other professionals in science and technology-based occupations. It strongly encourages women, minorities, and persons with disabilities to compete fully in the programs described in this document.

In accordance with Federal statutes and regulations on NSF policies, no person on grounds of race, color, age, sex, national origin or disability shall be excluded from participation in, denied benefits of, or be subject to discrimination under any program or activity receiving financial assistance from the National Science Foundation.

OMB No. 3145–0058; P.T.; K.W.; NSF 89—(to be filled in by OLPA).

Grant Administration

Grants awarded as a result of this solicitation are administered in accordance with the terms and conditions of NSF GC–1, "Grant General Conditions," or FDP–II, "Federal Demonstration Project General Terms and Conditions," depending on the grantee organization. Copies of these documents are available at no cost from the NSF Forms and Publications Unit, phone (202) 357–7668, or via e-mail, (Bitnet:pubs@nsf or Internet:pubs@note.nsf.gov). More comprehensive information is contained in the *NSF Grant Policy Manual* (NSF 88–47, July 1989), for sale through the Superintendent of Documents, Government Printing Office, Washington, DC 20402.

If the submitting institution has never received an NSF award, it is recommended that appropriate administrative officials become familiar with the policies and procedures in the NSF Grant Policy Manual which are applicable to most NSF awards. If a proposal is recommended for an award, the NSF Division of Grants and Contracts will request certain organizational, management, and financial information. These requirements are described in Chapter III of the NSF Grant Policy Manual.

Intergovernmental Review

Many states have elected to review proposals submitted to Federal agencies by prospective grantees from that state. Pursuant to Executive Order 12372, "Intergovernmental Review of Federal Program", and the implementing NSF regulations (see **Federal Register**, Volume 48, No. 123, June 24, 1983, pp. 29358–29366) proposers from these states must submit their proposals to the proper state authorities (listed below) prior to or simultaneously with submission to NSF. No grant award will be made by the NSF unless the state in these cases has had at least 60 days to review the proposal. Questions should be directed to the NSF Intergovernmental Review Officer at (202) 357–9496.

I. States That Have Elected NOT to Review Eligible NSF Programs:

Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Maryland, Minnesota, Montana, Nebraska, New York, North Carolina, Oregon, Rhode Island, Texas, Utah, West Virginia, Wisconsin, Puerto Rico.

Note: ALASKA and IDAHO have not established a State Process System under E. O. 12372.

II. Contact Addressees of States That Have Elected to Review Eligible NSF Programs

California

Office of Planning and Research, 1400 Tenth Street, Sacramento, CA 95814, (916) 323–7410

Connecticut

Intergovernmental Review Coordinator, Comprehensive Planning Division, Office of Policy and Management, 80 Washington Street, Hartford, CT 06106–4459, (302) 736–4204

Hawaii

Mr. Roger Ulveiling, Director, Department of Planning and Economic Development, P.O. Box 2359, Honolulu, HI 96804, (808) 548–3085

Indiana

Ms. Peggy Boehm, Deputy Director, State Budget, 212 State House, Indianapolis, IN 46204, (317) 232–5602

Kentucky

Bob Leonard, Kentucky State Clearinghouse, 2nd Flr., Capital Plaza Tower, Frankfort, KY 40601, (502) 564–2382

Louisiana

Mr. Colby S. LaPlace, Asst. Secretary and SPOC, Dept. of Urban & Comm. Affairs, Office of State Clearinghouse, P.O. Box 94455, Capitol Sta., Baton Rouge, LA 70804, (504) 342–9790

Massachusetts

Executive Office of Communities and Development, ATTN: Beverly Boyle, 100 Cambridge Street, Room 904, Boston, MA 02202, (617) 727–3253

Michigan

Ms. Michelyn Pasteur, Director, Local Government Service, Michigan Department of Commerce, P.O. Box 30225, Lansing, MI 48909, (517) 373–3530

Mississippi

Office of Federal/State Programs, Department of Planning and Policy, 2000 Walter Bilers Building, 500 High Street, Jackson, MS 39202, [For information Contact: Mr. Marlan Baucum, Dept. of Planning], (601) 359–3150

Missouri

Lois Pohl, Coordinator, Missouri Federal Assistance Clearinghouse, Office of Administration, Division of General Services, Post Office Box 809, Jefferson City, MO 65102, (314) 751–4834

Nevada

Ms. Jean Ford, Director, Office of Community Services, Capital Complex, Carson City, NV 89701, [Corres./Ques. Contact: John Walker Clearinghouse Coordinator], (702) 885–4420

New Hampshire

Mr. David G. Scott, Act. Dir., New Hampshire Office of State Planning, 2½ Beacon Street, Concord, NH 03301, (603) 271–2155

New Jersey

Mr. Barry Skokowski, Director, Division of Local Government Services, Dept. of Comm. Affairs/CN 803, 363 West State Street, Trenton, NJ 03625–0603, (609) 292–6613, [Correspondence and questions: Nelson S. Silver, State Review Process], (609) 292–9025

New Mexico

Mr. Dean Olson, Director, Dept. of Fin. and Adm., Management and Contracts Review Division, Clearinghouse Bureau, Room 424, State Capitol, Sante Fe, NM 87503, (505) 827–3885

North Dakota

Bill Robinson, Office of Intergovernmental Assistance, Office of Management & Budget, 14th Floor—State Capitol, Bismarck, ND 58505, (701) 224–2094

Ohio

State Clearinghouse, Office of Management and Budget, 30 East Broad Street, 39th Floor, Columbus, OH 43215, [Leonard E. Roberts, Deputy Director], (614) 466–0699

Oklahoma

Don Strain, Office of Federal Assistance Mgmt., 6601 Broadway Extension, Oklahoma City, OK 73116, (405) 843–9770

Pennsylvania

Laine A. Heltebridle, Spec. Asst., Pennsylvania Intergovernmental Council, Post Office Box 11880, Harrisburg, PA 17108, (717) 783–3700

South Carolina

Danny L. Cromer, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, SC 29201, (803) 734–0435

South Dakota

Sue Korte, State Clearninghouse Coordinator, Second Floor, Capitol Building, Pierre, SD 57501, (605) 773–3661

Tennessee

Tennessee State Planning, 1800 James K. Polk Bldg., 505 Deaderick Street, Nashville, TN 37219, (615) 741–1676

Vermont

State Planning Office, ATTN: Bernie Johnson, Pavilion Office Building, 109 State Street, Montpelier, VT 05602, (802) 828–3326

Virginia

Nancy Miller, Intergovernmental Review Officer, Dept. of Housing & Comm. Dev., 205 North 4th Street, Richmond, VA 23219, (802) 786–4474

Washington

Washington Dept. of Comm. Development, ATTN: Wash. Intrgvt. Rev. Pro., Dori Goodrich, Coordinator, Ninth and Columbia Bldg., Olympia, WA 98504–4151, (206) 586–1240

Wyoming

Ann Redman, Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, WY 82002, (307) 777–7574

Donald E. Sands,

Section Head, Networking and Teacher Preparation Section.

[FR Doc. 90–3759 Filed 2–16–90; 8:45 am]

BILLING CODE 7555-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Approval of Standard Form 2824 Documentation in Support of Disability Retirement Application Submitted To OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a revision of Standard Form 2824, Documentation in Support of Disability Retirement Application. The form includes Standard Form 2824A, Applicant's Statement of Disability, Standard Form 2824B, Supervisor's Statement, Standard Form 2824C, Physician's Statement, Standard Form 2824D, Agency Certification of Reassignment and Accommodation Effort, and Standard Form 2824E, Disability Retirement Application Checklist. Only Standard Form 2824C, Physician's Statement, requires clearance by OMB.

Approximately 9,000 forms are completed annually, each requiring approximately 1 hour to complete, for a total public burden of 9,000 hours. For copies of this proposal, call Larry Dambrose, on (202) 632–0199.

DATES: Comments on this proposal should be received on or before March 20, 1990.

ADDRESSES: Send or deliver comments to—

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 3235, Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 632–5472.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 90–3774 Filed 2–16–90; 8:45 am]

BILLING CODE 6325–01–M

PHYSICIAN PAYMENT REVIEW COMMISSION

Commission Meeting

AGENCY: Physician Payment Review Commission.

ACTION: Notice of public meeting.

SUMMARY: The Physician Payment Review Commission will hold a public meeting on Thursday, February 22, 1990, from 10 a.m. to 5:30 p.m., and Friday, February 23, 1990, beginning at 8:30 a.m. The meeting will be held at the Dupont Plaza Hotel, 1500 New Hampshire Avenue NW., in the Embassy A Meeting Room.

The public session of the meeting will be devoted to reviewing the recommendations to be included in the Commission's 1990 Report to Congress. The Commission will go into Executive Session upon completion of its review of the recommendations.

ADDRESS: The Commission office is located in Suite 510, 2120 L Street NW., Washington, DC. The telephone number is 202/653–7220.

FOR FURTHER INFORMATION CONTACT: Lauren LeRoy, Deputy Director 202/653–7220.

Paul B. Ginsburg,

Executive Director.

[FR Doc. 90–3755 Filed 2–16–90; 8:45 am]

BILLING CODE 6820–SE–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–27707; File No. SR–ISCC–89–01]

Self-Regulatory Organizations; International Securities Clearing Corporation; Notice of Filing of Amendment to a Proposed Rule Change Regarding Fees Charged in Connection With the PORTAL System [1]

February 13, 1990.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 17, 1990, International Securities Clearing Corporation ("ISCC") filed an amendment to a proposed rule change that it filed with the Securities and Exchange Commission ("Commission") on December 11, 1989 (File No. SR–ISCC–89–01). Notice of the original filing was published in the **Federal Register** on December 29, 1989.[2] The Commission is publishing this notice to solicit comments on the amendment from interested persons.

I. Text of the Proposed Rule Change

The amendment to File No. SR–ISCC–89–01 consists of fees for PORTAL transaction processing. ISCC intends to charge the following fees in connection with the Portal System:

(1) $5.00 per instruction transmitted to a foreign financial institution; and

(2) $3.00 per transaction submitted to the International Institutional Delivery ("IID") System operated by Depository Trust Company ("DTC").

II. Purpose of and Statutory Basis for the Proposed Rule Change

As described in Securities Exchange Act Release No. 27563,[3] ISCC filed the proposed rule change to allow it to accept data from the National Association of Securities Dealers ("NASD") in connection with the NASD's PORTAL System for processing through an existing ISCC data communications link and to transmit PORTAL System data to DTC for inclusion in the IID System. This amendment to the proposed rule change would permit ISCC to collect fees for those services.

[1] "PORTAL" is the name of a new trading system, Private Offerings, Resale and Trading through Automated Linkages, that is being developed by the National Association of Securities Dealers. For a description of the proposed PORTAL System, *see* Securities and Exchange Act Release No. 27470 (November 24, 1989), 54 FR 49164.

[2] Securities Exchange Act Release No. 27563 (December 21, 1989), 54 FR 53792.

[3] *See* note 2, *supra*.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which ISCC consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested parties are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room at the address above. Copies of such filing will also be available for inspection and copying at the principal office of ISCC. All submissions should refer to File No. SR–ISCC–89–01 and should be submitted by March 13, 1990.

For the Commission by the Division of Market Regulation, pursuant to delegated authority (17 CFR 200.30–3(a)(12)).

Jonathan G. Katz,

Secretary.

[FR Doc. 90–3763 Filed 2–16–90; 8:45 am]

BILLING CODE 3010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2387; Amdt. 3]

California; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with the Federal Emergency Management Agency's notice of January 2, 1990 which advises the incident date for the above-numbered disaster is closed effective December 18, 1989.

Because the Federal Emergency Management Agency (FEMA) has

extended the application period for the Temporary Housing Program (THP) and the Individual and Family Grant Program (IFGP) for FEMA 845 "until further notice" by amendment of January 19, 1990, the filing period for physical disaster loans is hereby extended on the same basis. The termination of the filing period for physical disaster loans will conform to the termination of the filing period for THP and IFGP for FEMA. This termination date will be publicly announced by FEMA in the disaster area and will be effective for physical disaster loan applications to SBA as well without further public notice by SBA in the Federal Register. The filing date for Economic Injury Disaster Loan applications remains the same, close of business on July 18, 1990.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 30, 1990.

Alfred E. Judd,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 90-3738 Filed 2-16-90; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Areas#6956 & #6957]

Florida; (And Contiguous Counties in the State of Alabama); Declaration of Disaster Loan Area

Walton County, and the contiguous counties of Bay, Holmes, Okaloosa, and Washington, in the State of Florida; and Covington and Geneva in the State of Alabama, constitute an Economic Injury Disaster Loan Area due to damages resulting from closure of the Choctawhatchee Bay Bridge which occurred on December 3, 1989. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on October 25, 1990 at the address listed below:

Disaster Area 2 Office, Small Business Administration, 120 Ralph McGill Blvd., 14th Floor, Atlanta, GA 30308

or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The numbers assigned to this declaration for economic injury are #695600 for the State of Florida; and #6957 for the State of Alabama.

(Catalog of Federal Domestic Assistance Program Nos. 59002)

Dated: January 25, 1990.

Susan Engeleiter,

Administrator.

[FR Doc. 90-3739 Filed 2-16-90; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2400; Amdt. 1]

Florida; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, in accordance with the notice by the Federal Emergency Management Agency dated January 24, 1990, to include the counties of Brevard, Citrus, Hernando, Hillsborough, Lake, Marion, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumpter, and Volusia as a result of damages caused by a severe freeze on December 23 through 25, 1989.

In addition, applications for economic injury from small businesses located in the contiguous counties of Alachua, Flagler, Hardee, Highlands, Indian River, Levy, Manatee, Okachobee, and Putnam may be filed until the specified date at the above location.

All other information remains the same; i.e., for physical damage, the filing deadline is March 16, 1990, and for economic injury the filing deadline is until the close of busienss on October 16, 1990.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: February 7, 1990.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 90-3740 Filed 2-16-90; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2394 & 2395]

Illinois; Declaration of Disaster Loan Area; Correction

The St. Clair County and the contiguous counties of Clinton, Madison, Monroe, Randolph, and Washington in the State of Illinois and St. Louis County in the State of Missouri constitute a disaster area as a result of damages from severe thunderstorms containing extremely strong winds which occurred on November 15, 1989.

Applications for loans for physical damage as a result of this disaster may be filed until the close of business on January 29, 1990 and for economic injury until the close of business on August 29, 1990, not July 29, 1990, as had previously been published, at the address listed below:

Disaster Area 2 Office, Small Business Administration, 120 Ralph McGill Blvd, 14th Floor, Atlanta, GA 30308

or other locally announced locations.

The interests are:

	Percent
For physical damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	9.250
For economic injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 239411 and for economic injury the number is 688900 in the State of Illinois. For St. Louis County in the State of Missouri, the number assigned for physical damage is 239511 and for economic injury the number is 689000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 30, 1990.

Susan Engeleiter,

Administrator.

[FR Doc. 90-3741 Filed 2-16-90; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Areas #6977, 6978, and 6979]

Louisiana (and Contiguous Counties in the States of Mississippi and Texas); Declaration of Disaster Loan Area

Cameron, Iberia, Jefferson, LaFourche, Livingston, Orleans, Plaquemines, St. Bernard, St. John the Baptist, St. Mary, St. Tammany, Tangipahoa, Terrebonne, and Vermillion Parishes and the contiguous parishes of Acadia, Ascension, Assumption, Calcasieu, East Baton Rouge, Iberville, Jefferson Davis, Lafayette, St. Charles, St. Helena, St. James, St. Martin (Lower), St. Martin (Upper), and Washington in the State of Louisiana; Amite, Hancock, Pearl River, and Pike Counties in the State of Mississippi; and Jefferson and Orange Counties in the State of Texas, constitute an Economic Injury Disaster Loan Area due to damages caused by a freeze which occurred during December 1989. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit

available elsewhere may file applications for economic injury assistance until the close of business on November 6, 1990 at the address listed below:

Disaster Area 3 Office, Small Business Administration, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155

or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The numbers assigned to this declaration for economic injury are 697700 for the State of Louisiana; 697800 for the State of Mississippi; and 697900 for the State of Texas.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: February 6, 1990.

Susan Engeleiter,

Administrator.

[FR Doc. 90-3742 Filed 2-16-90; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2384; Amdt. 4]

South Carolina; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, in accordance with a notice by the Federal Emergency Management Agency dated January 11. Because the Federal Emergency Management Agency (FEMA) has extended the application period for the Temporary Housing Program (THP) and the Individual and Family Grant Program (IFGP) for FEMA 843 "until further notice", the filing period for physical disaster loans is hereby extended on the same basis. The termination of the filing period for physical disaster loans will conform to the termination of the filing period for THP and IFGP for FEMA. This termination date will be publicly announced by FEMA in the disaster area and will be effective for physical disaster loan applications to SBA as well without further public notice by SBA in the Federal Register.

The filing date for Economic Injury Disaster Loan applications remains the same, June 22, 1990.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 30, 1990.

Alfred E. Judd,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 90-3745 Filed 1-16-90; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2399; Amdt. 2

Texas; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, in accordance with the notice by the Federal Emergency Management Agency dated January 25, 1990, to include Frio County as a result of damages caused by a severe freeze on December 21 through 24, 1989.

In addition, applications for econmic injury from small businesses located in the contiguous counties of Atascosa and McMullen may be filed until the specified date at the above location. Any counties contiguous to the above-named primary county and not listed herein have previously been named as contiguous or primary counties of the same occurrence.

All other information remains the same; i.e., for physical damage, the filing deadline is March 12, 1990, and for economic injury the filing deadline is until the close of business on October 10, 1990.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 8, 1990.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 90-3746 Filed 2-16-90; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2383; Amdt. 3]

U.S. Territory of the Virgin Islands; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, in accordance with the notice by the Federal Emergency Management Agency dated December 2, 1989, to extend the termination date for filing applications for physical damage until December 9, 1989. Although the amended filing period for this declaration has expired, this notice is being published for information purposes.

All other information remains the same; i.e., for economic injury the filing deadline is until the close of business on June 20, 1990.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 30, 1990.

Alfred E. Judd,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 90-3747 Filed 2-16-90; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #6808; Amdt. 2]

Washington; Declaration of Disaster Loan Area

Cowlitz County and the contiguous counties of Wahkiakum, Clark, and Skamania in the State of Washington, and Columbia in the State of Oregon constitute an Economic Injury Disaster Loan Area as a result of damage from the oil spill in Alaska's Prince William Sound Area, which occurred on March 24, 1989.

All other information remains the same; i.e., the termination date for filing applications for eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere is the close of business on May 2, 1990 at the address listed below:

Disaster Area 4 Office, Small Business Administration, P.O. Box 13795, Sacramento, California 95853-4795

or other locally announced locations.

Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

The number assigned for economic injury in the State of Oregon is 605500.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: January 25, 1990.

Susan Engeleiter,

Administrator.

[FR Doc. 90-3743 Filed 2-16-90; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2401; Amdt. 1]

Washington; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with the amendment to the President's declaration, dated January 22, 1990, to include Benton, Grays Harbor, King, Pierce, Thurston, and Wahkikum, as a disaster area as a result of damages caused by severe storms and flooding on January 6, 1990.

In addition, applications for economic injury from small businesses located in the contiguous counties of Chelan, Franklin, Grant, Jefferson, Kittatas, Klickitat, Mason, Snohomish, and Walla Walla in the State of Washington; and the the contiguous counties of Clatsop, Columbia, Morrow and Umatilla in the State of Oregon may be filed until the specified date at the above location.

Any contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

The number assigned for economic injury in the State of Oregon is 695800.

All other information remains the same; i.e., the termination date for filing applications for physical damage is March 19, 1990, and for economic injury until the close of business on October 18, 1990.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 30, 1990.

Alfred E. Judd,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 90-3744 Filed 2-16-90; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended February 9, 1990

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportations Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 46770

Date filed: February 5, 1990

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 5, 1990

Description: Application of Transportes Aeromar, S.A. de C.V. pursuant to section 402 of the Act and subpart Q of the Regulations requests issuance of a foreign air carrier permit authorizing Aeromar to engage in the scheduled transportation of persons, property, and mail between Tampico, Mexico, and Harlingen, Texas, and between Monterrey, Mexico, and Harlingen, Texas.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 90-3752 Filed 2-16-90; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

February 13, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0964.

Form Number: None.

Type of Review: Extension.

Title: Windfall profit tax; Rules Relating to Production From a Unitized Property of Imputed Stripper Well Crude Oil, Imputed Heavy Crude Oil, and Imputed Newly Discovered Crude Oil.

Description: These proposed regulations relate to production from a unitized property of imputed stripper well crude oil, imputed heavy crude oil, and imputed newly discovered crude oil for windfall profit tax purposes. The regulations require taxpayers to keep in their records a statement that supports their preferred tax treatment of certain crude oil.

Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Response/Recordkeeper: 1 hour.

Frequency of Response: Once.

Estimated Total Recordkeeping/ Reporting Burden: 2 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 90-3805 Filed 2-16-90; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

February 13, 1990.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Comptroller of the Currency

OMB Number: 1557-0014.

Form Number: None.

Type of Review: Revision.

Title: Comptroller's Manual for Corporate Activities.

Description: The Comptroller's Manual for Corporate Activities explains the OCC's policies and procedures for the formation of a new national bank, entry into the national banking system by other institutions, and corporate expansion and structural changes by existing national banks.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 3,850.

Estimated Burden Hours Per Respondent: 15 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 57,765 hours.

Clearance Officer: John Ference (202) 447-1177, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219.

OMB Reviewer: Gary Waxman (202) 395-7340, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 90-3760 Filed 2-16-90; 8:45 am]

BILLING CODE 4810-33-M

Bureau of Alcohol, Tobacco and Firearms

Granting of Relief, Federal Firearms Privileges

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of granting of restoration of Federal firearms privileges.

SUMMARY: The persons named in this notice have been granted restoration of their Federal firearms privileges by the Director, Bureau of Alcohol, Tobacco and Firearms.

As a result, these persons may lawfully acquire, transfer, receive, ship, and possess firearms if they are in compliance with applicable laws of the jurisdiction in which they live.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge Phil A. Orsini Firearms Enforcement Branch, Firearms Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, (202–566–7258).

SUPPLEMENTARY INFORMATION: In accordance with 18 U.S.C. 925(c), the persons named in this notice have been granted restoration of Federal firearms privileges with respect to the acquisition, transfer, receipt, shipment, or possession of firearms. These privileges were lost by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year or because they otherwise fell within a category of persons prohibited by Federal law from acquiring, transferring, receiving, shipping or possessing firearms.

It has been established to the Director's satisfaction that the circumstances regarding the applicants' disabilities and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the restoration will not be contrary to the public interest.

The following persons have been granted restoration:

ALLEN, Craig Ethan, 2697 Tylersville Road, Hamilton, Ohio, convicted on October 15, 1985, in the Butler County Court, Hamilton, Ohio.

AUBERRY, Gene Steven, Route 5, Box 68, Hayesville, North Carolina, convicted on September 27, 1983, in the United States District Court, Bryson City, North Carolina.

BABER, Dennis J., 10635 116th Avenue Northeast, Kirkland, Washington, convicted on March 4, 1969, and on April 16, 1969, in the United States District Court, Southern District of California.

BERG, Elmer Francis, 618 Second Street, Carlton, Minnesota, convicted February 24, 1984, in the Sixth Judicial Court, Carlton County, Minnesota.

BERLEY, Harold Woodrow, Route 3, Box 29, Prosperity, South Carolina, convicted on June 5, 1986, in the Court of General Sessions, Newberry County, South Carolina.

CHRISTENSON, Roland Thomas, 2306 Vine Street, Eau Claire, Wisconsin, convicted on June 14, 1983, in the Wisconsin Circuit Court, Branch II, Eau Claire, Wisconsin.

CUMBEE, Terry Marvin, 6405 Come About Way, Awendan, South Carolina, convicted on January 13, 1982, in the United States District Court, State of South Carolina.

CYR, Todd R., 413 South Main Street, Oconto Falls, Wisconsin, convicted on December 29, 1981, in the Menominee County Circuit Court, Green Valley, Wisconsin.

DAVIS, Robert D., 1603 North May Street, Guymon, Oklahoma, convicted on April 19, 1984, in the United States District Court, Western District of Oklahoma.

DOXTATOR, Victor Ellis, 2045 Freedom Road, Depere, Wisconsin, convicted on December 11, 1980, in the Circuit Court, Brown County, Green Bay, Wisconsin.

FEDERER, Arthur, 1011 West 26th, Cheyenne, Wyoming, convicted on April 28, 1974, in the New York Supreme Court, County of Tompkins, New York.

FERGUSON, Walter Jr., 700 West 9th, Hutchinson, Kansas, convicted on March 9, 1987, in the United States District Court, Kansas City, Kansas.

FERRIGNO, Lawrence E., 12 Connoquenessing Terrace, Ellwood City, Pennsylvania, convicted on May 25, 1970, in the Criminal Court of Dade County, Florida, and on March 9, 1976, in the United States District Court for the Western District of Pennsylvania.

FLETCHER, Chester R., Post Office Box 34, Big Clifty, Kentucky, convicted on May 7, 1982, in the Grayson County Circuit Court, Leitchfield, Kentucky.

GALLAGHER, Patrick, 2289 South Union Street, Spencerport, New York, convicted on June 16, 1983, in the Monroe Superior County Court, New York.

GARDNER, James William, 1661 North Hilltop Drive, Vernal, Utah, convicted on August 15, 1983, in the United States District Court, Wyoming.

GOODWIN, Roy DeWayne, Route 1, Box 50, Crane Hill, Alabama, convicted on August 1, 1984, in the United States District Court, Middle District of Alabama.

HALL, Augustus Henry, Route 1, Box 237–A, Elloree, South Carolina, convicted on April 5, 1975, in the United States District Court, Columbia, South Carolina.

HAVERLAND, Kevin Gerald, 2139 Louisburg Road, Cuba City, Wisconsin, convicted on January 31, 1983, in the Grant County Circuit Court, Lancaster, Wisconsin.

HELGESON, John Robert, Route 2, Box 63, Independence, Wisconsin, convicted on October 4, 1983, in the Circuit Court, Buffalo County, Alma, Wisconsin.

HENKEL, Lorne Jay, 6099 Sumter Avenue North, New Hope, Minnesota, convicted on April 29, 1981, in the Hennepin County Circuit Court, Minneapolis, Minnesota.

HILL, Charles Lee, Route 1, Box 270, Guntersville, Alabama, convicted on September 19, 1983, in the United States District Court for the Northern District of Alabama.

JENKINS, Daniel C., 186 Morehead Road, Bowling Green, Kentucky, convicted on October 26, 1981, in the Warren County Circuit Court, Bowling Green, Kentucky.

JOHNSON, Robert, Route 3, Box 221, Irvine, Kentucky, convicted on November 20, 1980, in the Fayette Circuit Court, Lexington, Kentucky.

KEISTER, Eugene W., Route 2, Box 275, Fire Number W240, Gran Grae Road, Prairie du Chien, Wisconsin, convicted on July 27, 1976; April 24, 1984, and September 25, 1985, in the Crawford County Court, Prairie du Chien, Wisconsin.

KING, Timothy Edward, 1873 Kenwood Road, Kingsport, Tennessee, convicted on September 16, 1981, in the Sullivan County Criminal Court, Tennessee.

LACKEY, Michael Berwin, Route 1, Box 732, Lenoir, North Carolina, convicted on October 21, 1985, in the United States District Court, Statesville Division, Western District of North Carolina.

LADURINI, Ferdinando, 1424 Glenpoe Avenue, Highland Park, Illinois, convicted on January 9, 1973, in the United States District Court, Northern District of Illinois.

LAWSON, Roger Clifton, 2001 Poynter's Road, Glasgow, Kentucky, convicted on August 24, 1979, in the Barren County Circuit Court, Glasgow, Kentucky.

LEE, Horace Douglas, 9935 Mangos Drive, San Ramon, California, convicted on June 20, 1979, in the Superior Court, Alameda County, California.

MAUFAS, Jerome James, 147E Windsor Castle Drive, Newport News, Virginia, convicted on June 23, 1975, in the United States District Court, Eastern District of Virginia.

MAY, Billy Lewis, 3909 Hylton Drive, Apartment E, Raleigh, North Carolina, convicted on January 31, 1986, in the Circuit Court, Warren County, Front Royal, Virginia.

MCKENZIE, William James, 102 Grove Drive, Apartment I–4, Jackson, Alabama, convicted on October 13, 1976, and May 6, 1981, in the Clarke County Circuit Court, Grove Hill, Alabama.

MCKINNEY, John Avery, 12516 Tennant Road, Macdoel, California, convicted on January 21, 1982, in the United States District Court, Eastern District of California.

MCKINNEY, Percy, 2021 Francis Street, Flint, Michigan, convicted on April 9, 1951, in the Genesee County Circuit Court, Flint, Michigan.

MONDRAWICKAS, Douglas Keith, 3804 79th Street, Kenosha, Wisconsin, convicted on March 31, 1980, in the Kenosha County Circuit Court, Kenosha, Wisconsin.

MONTGOMERY, Robert Eugene, 275–B Northwest 13th Avenue, Hermiston, Oregon, convicted on February 23, 1983, in the Oregon Circuit Court, Umatilla County Oregon.

MOODY, Michael Dale, Route 139, Box 98, Monroe, Maine, convicted on December 19, 1978, in the Superior Court, Belfast, Maine.

MORSE, Arthur Benjamin, 22657 North M–66, Battle Creek, Michigan, convicted on April 10, 1984, in the United States District Court, Grand Rapids, Michigan.

OLIVER, Donald Edward Junior, 45 Green Meadow Drive, Timonium, Maryland, convicted on January 28, 1981, in the Harford County Circuit Court, Bel Air, Maryland.

ORNELIAS, Reynaldo F., 518 Fairview Drive, Corpus Christi, Texas, convicted on

October 25, 1982, in the United States District Court, Corpus Christi, Texas.

PERKINS, Donald William, 25 Fourth Avenue, Hampden Village, Westfield, Massachusetts, convicted on September 25, 1980, in the United States District Court, District of Massachusetts.

POTTER, William Stephen, 2603 Jamet Street, Flatwoods, Kentucky, convicted on October 13, 1977, in the Cumberland County Superior Court, Kentucky.

RIZZO, Ralph Joseph III, 402 Guilford Circle, Raleigh, North Carolina, convicted on September 19, 1975, in the Circuit Court, Winnebago, Wisconsin.

ROGERS, Robert Maurice L., Post Office Box 417, 17711 318 Avenue Northeast, Duvall, Washington, convicted on February 4, 1983, in the United States District Court, Seattle, Washington.

RUETH, Jefferey David, 2011 Piney Woods Way, Spring Texas, convicted on February 25, 1980, in the Clark County Circuit Court, Wisconsin.

RUNGE, Charles Vincent, III, 255 Old Stone Hill Road, Round Ridge, New York, convicted on January 1, 1982, in the Westchester County.

RUNYON, Arthur Lee, 1161 Denton Drive, Smiths Grove, Kentucky, convicted on November 4, 1983, in the Barren Circuit Court, Glasgow, Kentucky.

SHOOK, Robert Kevin, 1421 North Five Mile, Boise, Idaho, convicted on July 16, 1981, in the Elmorg County District Court, Idaho.

SKIPPER, Ronald Ray, Route 5, Box 18, Apartment 2, Lake Geneva, Wisconsin, convicted on December 11, 1979, in the Walworth County Circuit Court, Branch II, Elkhorn, Wisconsin.

SPALENY, Randy Fred, 308 West McNeil Street, Corunna, Michigan, convicted on July 6, 1976, in the Circuit Court, County of Shiawassee, Michigan.

SPIVEY, Robert Glenn, 4811 Bowling Green Road, Russellville, Kentucky, convicted on July 21, 1978, in the Logan Circuit Court, Russellville, Kentucky.

STEWART, Charles Monroe, Post Office Box 43, Glen Allen, Alabama, convicted on January 30, 1976, in the Circuit Court, Fayette County, Alabama.

TINCHER, Arthur Randolph Junior, 2166 Crowe Ridge Road, Winchester, Kentucky, convicted on March 1, 1983, in the Fayette Circuit Court, Lexington, Kentucky.

TYZNIK, Duane C., 530 West Clark, Unity, Wisconsin, convicted on March 27, 1984, in the Clark County Circuit Court, Neillsville, Wisconsin.

VOELKER, Frank Thomas, 140 Myakka Drive, Venice, Florida, convicted on September 16, 1980, in the Marion County Superior Court, Indiana.

WALLACE, David Earl, 213 Forest Terrace, Isle of Palms, South Carolina, convicted on June 18, 1981, in the United States District Court, Charleston, South Carolina.

WESTERMAN, Marlin Thomas, Route 1, Box 51B, Stewart, Tennessee, convicted on April 6, 1984, in the Houston County Circuit Court, Ervin, Tennessee.

WILLIAMSON, Bradley A., Post Office Box 454, Siron, Wisconsin, convicted on July 29, 1985, in the Burnett County Circuit Court, Grantsburg, Wisconsin.

Compliance with Executive Order 12291

It has been determined that this notice is not a "major rule" within the meaning of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Signed: February 5, 1990.

Stephen E. Higgins,

Director.

[FR Doc. 90-3761 Filed 2-16-90; 8:45 am]

BILLING CODE 4810-31-M

Office of Thrift Supervision

[No. 90-335]

Outside Borrowings

February 12, 1990.

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice.

SUMMARY: The public is advised that the Office of Thrift Supervision ("OTS") has submitted a new information collection entitled "Outside Borrowings" to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35).

The collection of information contained in 12 CFR 563.80 is required by the Office to monitor debt levels of undercapitalized savings associations. This information will be used to ensure safe and sound operation of the thrift industry. The estimated annual burden per respondent varies from 2 to 8 hours, depending on individual circumstances, with an estimated average of 4 hours.

DATES: Comments on the information collection request are welcome and should be submitted on or before March 2, 1990.

ADDRESSES: Comments regarding the paperwork-burden aspects of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503; Attention: Desk Officer for the Office of Thrift Supervision.

The Office of Thrift Supervision would appreciate commenters sending copies of their comments to the information contact provided below.

Request for copies of the proposed information collection request and supporting documentation are obtainable at the Office of Thrift Supervision address given below: Director, Information Services Division, Communication Services, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, Phone: 202-416-2751.

FOR FURTHER INFORMATION CONTACT: Robyn Dennis, (202) 331-4572, Office of Thrift Supervision, Supervision Operations, 1700 G Street NW., Washington, DC 20552.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 90-3749 Filed 2-16-90; 8:45 am]

BILLING CODE 6720-01-M

[Order 90-336]

Applications for Conversion From State-Chartered Association to Federally Chartered Association

Date: February 12, 1990.

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice.

SUMMARY: The public is advised that the Office of Thrift Supervision ("OTS") has submitted for extension, with minor revision, an information collection request, "Applications for Conversion from State Chartered Associations to Federally Chartered Associations" has been sent to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35).

The information is necessary to review the application and determine whether the application meets eligibility requirements for conversion. Eligible institutions requesting approval to convert are required to submit an application. An application must be submitted for each conversion request. OTS estimates that each application will require four hours to complete.

DATE: Comments on the information collection request are welcome and should be submitted on or before March 7, 1990.

ADDRESS: Comments regarding the paperwork-burden aspects of the request should be directed to: Office of Management and Budet, Office of Information and Regulatory Affairs, Washington, DC 20503; Attention: Desk Officer for the Office of Thrift Supervision.

The Office of Thrift Supervision would appreciate commenters sending

copies of their comments to the information contact provided below.

Request for copies of the proposed information collection request and supporting documentation are obtainable at the Office of Thrift Supervision address given below: Dirctor, Infomation Services Division, Communication Services, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552; Phone: 202–416–2751.

FOR FURTHER INFORMATION CONTACT: Paula C. Lane, (202) 906–6727, Office of Thrift Supervision, Corporate Activities Division, 1700 G Street NW., Washington, DC 20552.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 90–3750 Filed 2–16–90; 8:45 am]

BILLING CODE 6720–01–M

[Order No. AC–5; OTS No. 4094]

Home Federal Savings, Alton, IL; Final Action; Approval of Conversion Application

Date: February 12, 1990.

Notice is hereby given that on February 7, 1990, the Chief Counsel, acting pursuant to the authority delegated to him or his designee, approved the application of Home Federal Savings, Alton, Illinois, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552 and District Director, Office of Thrift Supervision, Chicago District Office, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601–4360.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 90–3751 Filed 2–16–90; 8:45 am]

BILLING CODE 6720–01–M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 34
Tuesday, February 20, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2 p.m. on Tuesday, February 13, 1990, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency) and Director M. Danny Wall (Director of the Office of Thrift Supervision), that Corporation business required the addition to the agenda for consideration at the meeting, on less than days' notice to the public, of the following matters:

Proposal for an extension of time for solicitation of comments on and for a public hearing on proposed amendments to Parts 330 and 331 of the Corporation's rules and regulations, entitled "Clarification and Definition of Deposit Insurance Coverage" and "Insurance of Trust Funds," respectively.

FDIC Minority and Women Outreach Program in Contracting for Goods and Services.

By the same majority vote, the Board further determined that no notice earlier than February 7, 1990, of these changes in the subject matter of the meeting was practicable.

Dated: February 14, 1990.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 90-3895 Filed 2-15-90; 9:35 am]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, February 13, 1990, the Corporation's Board of Directors determined, that on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency) and Director M. Danny Wall (Director of the Office of Thrift Supervision), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the application of the Bank of America State Bank, a proposed new bank to be located at 1850 Gateway Boulevard, Suite 1070, Concord, California, for Federal deposit insurance.

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: February 14, 1990.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 90-3896 Filed 2-15-90; 9:35 am]

BILLING CODE 6714-01-M

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: February 13, 1990, 55 FR 5114.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: February 14, 1990, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Number has been added to Item CAG-22 for the agenda of February 14, 1990:

Item No., Docket No., and Company

CAG-22—IS89-9-002—BP Pipelines (Alaska), Inc.

Lois D. Cashell.

Secretary.

[FR Doc. 90-3974 Filed 2-15-90; 2:11 pm]

BILLING CODE 6707-02-M

INTERSTATE COMMERCE COMMISSION

TIME & DATE: 4:30 p.m., Wednesday, February 14, 1990.

PLACE: Room 4425, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC. 20423.

STATUS: Emergency meeting on short notice.

SUMMARY: The Commission held an emergency meeting on short notice and voted at that meeting to grant an application, filed on February 14, 1990, by the New York Susquehanna and Western Railway Corporation for an Emergency Service Order, effective for 48 hours beginning at 12:01 a.m. on February 15, 1990, in Service Order No. 1506, Supplemental Order No. 2—The New York, Susquehanna and Western Railway Corporation—Lackawanna Valley Railroad Corporation—North Shore Railroad Company—Authorized To Operate Tracks of Delaware and Hudson Railway Company, Debtor, (Francis P. Dicello, Trustee) and to issue a rerouting order to permit rerouting of Delaware and Hudson overhead traffic in *Rerouting Traffic*, I.C.C. Order No. 7. Present and voting at the meeting were Chairman Philbin, and Commissioners Simmons and Lamboley. Vice Chairman Phillips and Commissioner Emmett did not particiapte.

Kathleen M. King,

Acting Secretary.

[FR Doc. 90-3967 Filed 2-15-90; 1:30 pm]

BILLING CODE 7035-01-M

INTERSTATE COMMERCE COMMISSION

Commission Voting Conference

TIME & DATE: 9:00 a.m., Friday, February 16, 1990.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS: Short notice of open special conference.

The purpose of the conference is for the Commission to discuss among themselves, and to vote on, the agenda item. Although the conference is open for the public observation, no public participation in the conference is permitted.

MATTERS TO BE DISCUSSED: Service Order No. 1506, Supplemental Order No. 2:

The New York, Susquehanna and Western Railway Corporation—

Lackawanna Valley Railroad Corporation—North Shore Railroad Company—Authorized To Operate Tracks of Delaware and Hudson Railway Company, Debtor, (Francis P Dicello, Trustee); and, Rerouting Traffic, I.C.C. Order No. 7.

CONTACT PERSON FOR MORE INFORMATION: Bernard Gaillard, Director, Office of Consumer and Compliance Assistance, Telephone: (202) 275-7849.

Kathleen M. King,

Acting Secretary.

[FR Doc. 90-3968 Filed 2-15-90; 1:35 pm]

BILLING CODE 7035-01-M

Corrections

Federal Register
Vol. 55, No. 34
Tuesday, February 20, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket 89-192]

U.S. Veterinary Biological Product and Establishment Licenses Issued, Suspended, Revoked, or Terminated

Correction

In notice document 90-29311 beginning on page 51779 in the issue of Monday, December 18, 1989, make the following correction:

On page 51780, in the table, in the seventh entry, in the fifth column, "377" should read "337".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59880; FRL-3686-9]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

Correction

In notice document 89-29694 beginning on page 52456 in the issue of Thursday, December 21, 1989, make the following corrections:

1. On page 52457, in the first column, the first PMN, "90-27" should read "Y90-27".

2. On the same page, in the second column, under PMN "Y90-34", the last line, should begin "LD50>5".

BILLING CODE 1505-01-D

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 301

[FTR Amdt. 6]

RIN 3090-AD44

Federal Travel Regulation; Maximum Per Diem Rates

Correction

In rule document 90-1061 beginning on page 1946 in the issue of Friday, January 19, 1990, make the following corrections:

Appendix A to Chapter 301 [Corrected]

1. On page 1948, in the fourth column of the table, the entry "26" should read "34".

2. On page 1949, at the 11th entry of the table, in the second column, "Wicomico" was misspelled.

3. On page 1950, at the sixth entry, in the second column, "Hillsborough" was misspelled.

4. On page 1950, in the fourth column, the M&IE rate for Saratoga Springs, New York should be "34" instead of "26".

5. On page 1952, in the first column, the fifteenth city listed under the State of Texas should read "Lajitas" instead of "Lajitis".

BILLING CODE 1505-01-D

GENERAL SERVICES ADMINISTRATION

41 CFR Part 302-11

[FTR Amdt. 5]

RIN 3090-AD45

Federal Travel Regulation; Relocation Income Tax Allowance

Correction

In rule document 90-1060 beginning on page 1674 in the issue of Thursday, January 18, 1990, make the following correction:

Appendix B to § 302.11 [Corrected]

On page 1675, entry number 45 in the table, in the fourth column, "7.37" should read "7.35".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions, and Delegations of Authority; Office of the Regional Director et al.

Correction

In notice document 90-3294 beginning on page 5072 in the issue of Tuesday, February 13, 1990, make the following correction:

On page 5072, in the third column, preceeding the twenty second line from the bottom add the following line "D.Division of Cost Allocation and Liaison."

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Reg. No. 16]

RIN 0960-AC75

Supplemental Security Income for the Aged, Blind, and Disabled; Presumptive Disability and Presumptive Blindness; Categories of Impairments-AIDS Extension Date

Correction

In the issue of Monday, February 12, 1990, on page 4936, in the second column, in the correction of rule document 89-30232, the heading should read as set forth above.

BILLING CODE 1505-01-D

federal register

Tuesday
February 20, 1990

Part II

Environmental Protection Agency

48 CFR Parts 1515 and 1552
Cost and Pricing Instruction Preparation; Acquisition Regulation; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1515 and 1552

[FRL 3725-9]

Cost and Pricing Instruction Preparation; Acquisition Regulation

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule modifies the Environmental Protection Agency's (EPA) instructions for the preparation of cost or pricing proposals. This rule requests additional information from offerors to allow EPA to evaluate cost and pricing proposals submitted in response to solicitations more quickly and accurately, and requires that cost or pricing proposal information be submitted on computer disks as well as in hard copy.

DATES: Comments must be received on or before March 22, 1990.

ADDRESSES: Comments should be addressed to: Environmental Protection Agency, Procurement and Contracts Management Division (PM-214F), 401 M Street SW., Washington, DC 20460, attn: Joseph Nemargut Jr.

FOR FURTHER INFORMATION CONTACT: Joseph Nemargut at (202) 382-5019.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule requests more detailed information for cost or pricing proposals submitted to EPA and also requires cost or pricing proposal information be submitted on an IBM-compatible disk formatted for use on LOTUS 1-2-3. Current EPA instructions do not provide Government reviewers with sufficient information to evaluate cost or pricing proposals properly. The EPA must frequently request proposers to submit additional information delaying review and subsequent contract award. This rule will eliminate the need for EPA to request additional cost or pricing proposal information in most instances and will accelerate contract award. Submission of a computer disk will also accelerate review by allowing information to be verified for arithmetic accuracy more quickly.

B. Executive Order 12291

OMB Bulletin No. 85-7, dated December 14, 1984, establishes the requirements for Office of Management and Budget (OMB) review of agency procurement regulations. This regulation does not fall within any of the categories cited in this Bulletin requiring OMB review.

C. Paperwork Reduction Act

The information requested under this proposed rule is subject to the requirements of the Paperwork Reduction Act. The EPA is seeking approval by the Office of Management and Budget.

D. Regulatory Flexibility Act

This rule is not expected to have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The information requested for submission is readily available and will require only a minimal effort for offerors to compile. The EPA certifies that this rule will not exert a significant impact on a substantial number of small entities. Therefore, no regulatory flexibility analysis has been prepared.

For the reasons set out in the preamble, Parts 1515 and 1552 of Title 48 of the Code of Federal Regulations, are proposed to be amended as set forth below.

1. The authority citation for part 1515 continues to read as follows:

Authority: Sec 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

2. Section 1515.407 is amended by revising paragraph (a)(2) to read as follows:

1515.407 Solicitation provisions.

(a) * * *

(2) 1552.215-73, Instructions for the Preparation of Technical and Cost or Pricing Proposals (use Alternate I for cost-reimbursable, level of effort contracts).

* * * * *

3. The authority citation for part 1552 continues to read as follows:

Authority: Sec 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

4. Section 1552.215-73 is amended by revising the introductory paragraph, and paragraphs (b)(1)(vi), (b)(4), and (b)(7); by adding text to the end of paragraphs (b) introductory text, (b)(1)(ii), (b)(1)(iv), (b)(2)(ii), (b)(2)(iv)(D), (b)(3), and (b)(6); by adding paragraph (b)(1)(vii), (b)(1)(viii), (b)(8), (b)(9), and Alternate I; by removing paragraph (c) to read as follows:

1552.215-73 Instructions for the preparation of technical and cost or pricing proposals.

As prescribed in 1515.407(a), insert the following provision:

Instructions for the Preparation of Technical and Cost or Pricing Proposals (XXX 1990)

* * * * *

(b) * * * In addition to a hard copy of the information, to expedite review of your proposal you are requested to submit a 5¼", IBM-compatible, formatted disk for use on LOTUS 1-2-3- Release 2.01, containing the financial data required under 1552.215-73 (b)(2)-(b)(9). Offerors should include the formulas and factors used in calculating the financial data on the disk as well as the basic financial information.

(1) * * *

(ii) * * * Include an index, appropriately referenced to specific page numbers, identifying all the cost or pricing data and information accompanying or identified in the proposal.

* * * * *

(iv) * * * Separately identify costs and supporting data for each such entity proposed.

* * * * *

(vi) If the contract includes the clause at EPAAR 1552.232-73, "Payments—Fixed-Rate Services Contract," or the clause at FAR 52.232-7, "Payments Under Time and Materials and Labor-Hour Contracts," include in your cost proposal the estimated costs and burden rate you will apply to materials, other direct costs, or subcontracts. The Government will include these costs as part of its cost proposal evaluation.

(vii) Provide the following information regarding your accounting system:

(A) How often are timesheets prepared?

(B) Do you require timesheets to be signed by the employee and his/her supervisor?

(C) Describe the written procedures you have for correcting timesheets when necessary.

(D) Do you follow the Federal Travel Regulations for meals, lodging and incidental expenses under Federal contracts?

(E) Do you have written travel policies that comply with the Federal Travel Regulations for travel under Federal contracts?

(F) Do you bill subcontractor costs only after having paid the subcontractor? (This does not apply to small businesses.)

(G) For costs billed on a rate basis (e.g., computer time), identify the basis for developing the rate(s).

(H) Are the rates used in paragraph (b)(1)(vii)(G) of this section and the contract billings using those rates adjusted to actual on a periodic basis? If yes, describe how often the rates are adjusted. If no, describe how the over/under costs are handled.

(viii) Whenever subcontractor effort is included in the proposed costs, the prime contractor shall include an additional supporting cost summary consolidating all costs (both contractor and subcontractor) by element for each contract period.

(2) * * *

(ii) * * * The methodology shall include the effective date of the base rates and the company policy on salary reviews (e.g., anniversary date of employee or salary reviews for all employees on a specific date).

* * * * *

(iv) * * *

(D) * * * (Show proportionate time charged as a percentage of 100% of time for the entire school year, exclusive of vacation or sabbatical leave.)

(3) * * * If your rates have been recently approved, include a copy of the agreement. If the agreement does not cover the projected performance period of the proposed effort, provide the rationale and any estimated rate calculations for the proposed performance period.

(4) Travel expense. Attach a schedule detailing how travel was computed. Include a breakdown indicating the number of trips, number of travellers, destination, purpose and cost. Provide a copy of your company's travel policies.

* * * * *

(6) * * * Include a cost or price analysis of the subcontract costs in accordance with FAR 15.806–1(a)(2).

(7) Equipment (not including special equipment)

(i) If direct charges for use of existing contractor equipment are proposed, provide a description of these items and details of the basis of such charges.

(ii) If equipment purchases are proposed, provide a description of these items, details of the proposed costs (including at least three price quotes), and a justification as to why the Government should furnish the equipment or allow its purchase with contract funds.

(iii) Identify Government-owned property in the possession of the offeror or proposed to be used in the performance of the contract, and the Government agency which has cognizance over the property

(8) Facilities and special equipment, including tooling.

(i) If special purpose facilities or equipment is being proposed, provide a description of these items, details of the proposed costs including competitive prices, and a justification as to why the Government should furnish the equipment or allow its purchase with contract funds.

(ii) If fabrication by the prime Contractor is contemplated, include details of material, labor, and overhead.

(9) Other direct costs. Attach a schedule detailing how other direct costs were computed. Provide your company's written policy on the charging of other direct costs. Identify the major ODC items that under your accounting system would be a direct charge on any resulting contract.

(End of provision)

Alternate I (XXX 1990). If this solicitation is for a cost-reimbursable, level of effort type contract, add the following at the end of paragraph (2)(i):

All management and support (includes clerical, corporate and day-to-day management) hours and costs proposed to be a direct charge, in accordance with your normal accounting treatment, are to be shown separately from that for the technical effort.

Dated: February 7, 1990.

John C. Chamberlin,

Director, Office of Administration.

[FR Doc. 90–3816 Filed 2–16–90; 8:45 am]

BILLING CODE 6560–50–M

federal register

Tuesday
February 20, 1990

Part III

The President

Executive Order 12701—Amending Executive Order 12334

Federal Register
Vol. 55, No. 34
Tuesday, February 20, 1990

Presidential Documents

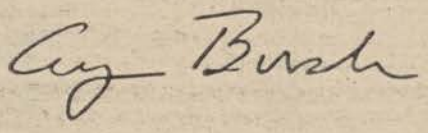
Title 3—

The President

Executive Order 12701 of February 14, 1990

Amending Executive Order No. 12334

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to amend Executive Order No. 12334, it is hereby ordered that the second sentence of section 1 of Executive Order No. 12334 shall be deleted and the following sentence inserted in lieu thereof: "One member shall be designated by the President as Chairman."



THE WHITE HOUSE,
February 14, 1990.

[FR Doc 90-4034
Filed 2-16-90; 12:17 pm]
Billing code 3195-01-M

Reader Aids

Federal Register

Vol. 55, No. 34

Tuesday, February 20, 1990

INFORMATION AND ASSISTANCE

FEDERAL REGISTER PAGES AND DATES, FEBRUARY

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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LIST OF PUBLIC LAWS

Last List: February 16, 1990

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

S.J. Res. 103/Pub. L. 101–244

To designate the period commencing February 18, 1990, and ending February 24, 1990, as "National Visiting Nurse Associations Week." (Feb. 14, 1990; 104 Stat. 11; 2 pages) Price: $1.00

S.J. Res. 130/Pub. L. 101–245

Designating February 11 through February 17, 1990, as "Vocational-Technical Education Week." (Feb. 14, 1990; 104 Stat. 13; 2 pages) Price: $1.00

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $620.00 domestic, $155.00 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, DC 20402. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at **(202) 783-3238** from 8:00 a.m. to 4:00 p.m. eastern time, Monday—Friday (except holidays).

Title	Price	Revision Date
1, 2 (2 Reserved)	$10.00	Apr. 1, 1989
3 (1988 Compilation and Parts 100 and 101)	21.00	[1] Jan. 1, 1989
4	15.00	Jan. 1, 1989
5 Parts:		
1-699	15.00	Jan. 1, 1989
700-1199	17.00	Jan. 1, 1989
1200-End, 6 (6 Reserved)	13.00	Jan. 1, 1989
7 Parts:		
0-26	15.00	Jan. 1, 1989
27-45	12.00	Jan. 1, 1989
46-51	17.00	Jan. 1, 1989
52	23.00	[2] Jan. 1, 1988
53-209	18.00	Jan. 1, 1989
210-299	24.00	Jan. 1, 1989
300-399	12.00	Jan. 1, 1989
400-699	19.00	Jan. 1, 1989
700-899	22.00	Jan. 1, 1989
900-999	28.00	Jan. 1, 1989
1000-1059	16.00	Jan. 1, 1989
1060-1119	13.00	Jan. 1, 1989
1120-1199	11.00	Jan. 1, 1989
1200-1499	20.00	Jan. 1, 1989
1500-1899	10.00	Jan. 1, 1989
1900-1939	11.00	Jan. 1, 1989
1940-1949	21.00	Jan. 1, 1989
1950-1999	22.00	Jan. 1, 1989
2000-End	9.00	Jan. 1, 1989
8	13.00	Jan. 1, 1989
9 Parts:		
1-199	20.00	Jan. 1, 1989
200-End	18.00	Jan. 1, 1989
10 Parts:		
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51-199	17.00	Jan. 1, 1989
200-399	13.00	[3] Jan. 1, 1987
400-499	14.00	Jan. 1, 1989
500-End	28.00	Jan. 1, 1989
11	10.00	[2] Jan. 1, 1988
12 Parts:		
1-199	12.00	Jan. 1, 1989
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220-299	19.00	Jan. 1, 1989
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60-139	21.00	Jan. 1, 1989
140-199	10.00	Jan. 1, 1989
200-1199	21.00	Jan. 1, 1989
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300-799	22.00	Jan. 1, 1989
800-End	14.00	Jan. 1, 1989
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200-239	16.00	Apr. 1, 1989
240-End	22.00	Apr. 1, 1989
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150-279	16.00	Apr. 1, 1989
280-399	14.00	Apr. 1, 1989
400-End	9.50	Apr. 1, 1989
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1-199	28.00	Apr. 1, 1989
200-End	9.50	Apr. 1, 1989
20 Parts:		
1-399	13.00	Apr. 1, 1989
400-499	24.00	Apr. 1, 1989
500-End	28.00	Apr. 1, 1989
21 Parts:		
1-99	13.00	Apr. 1, 1989
100-169	15.00	Apr. 1, 1989
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300-499	28.00	Apr. 1, 1989
500-599	21.00	Apr. 1, 1989
600-799	8.00	Apr. 1, 1989
800-1299	17.00	Apr. 1, 1989
1300-End	6.50	Apr. 1, 1989
22 Parts:		
1-299	22.00	Apr. 1, 1989
300-End	17.00	Apr. 1, 1989
23	17.00	Apr. 1, 1989
24 Parts:		
0-199	19.00	Apr. 1, 1989
200-499	28.00	Apr. 1, 1989
500-699	11.00	Apr. 1, 1989
700-1699	23.00	Apr. 1, 1989
1700-End	13.00	Apr. 1, 1989
25	25.00	Apr. 1, 1989
26 Parts:		
§§ 1.0-1-1.60	15.00	Apr. 1, 1989
§§ 1.61-1.169	25.00	Apr. 1, 1989
§§ 1.170-1.300	18.00	Apr. 1, 1989
§§ 1.301-1.400	15.00	Apr. 1, 1989
§§ 1.401-1.500	28.00	Apr. 1, 1989
§§ 1.501-1.640	16.00	Apr. 1, 1989
§§ 1.641-1.850	19.00	Apr. 1, 1989
§§ 1.851-1.1000	31.00	Apr. 1, 1989
§§ 1.1001-1.1400	17.00	Apr. 1, 1989
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30-39	14.00	Apr. 1, 1989
40-49	13.00	Apr. 1, 1989
50-299	16.00	Apr. 1, 1989
300-499	16.00	Apr. 1, 1989
500-599	7.00	Apr. 1, 1989
600-End	6.50	Apr. 1, 1989
27 Parts:		
1-199	24.00	Apr. 1, 1989
200-End	14.00	Apr. 1, 1989
28	27.00	July 1, 1989

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29 Parts:		
0–99	17.00	July 1, 1989
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30 Parts:		
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700–End	20.00	July 1, 1989
31 Parts:		
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33 Parts:		
1–199	30.00	July 1, 1989
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34 Parts:		
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*300–399	14.00	Nov. 1, 1989
400–End	26.00	July 1, 1988
35	10.00	July 1, 1989
36 Parts:		
1–199	12.00	July 1, 1989
200–End	21.00	July 1, 1989
37	14.00	July 1, 1989
38 Parts:		
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39	14.00	July 1, 1989
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150–189	21.00	July 1, 1989
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Jan.1, 1988 to Dec.31, 1988. The CFR volume issued January 1, 1988, should be retained.

[3] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1988. The CFR volume issued January 1, 1987, should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.